IMMIGRATION REFORM AND CONTROL ACT OF 1983

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

OF THE

COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

H.R. 1510

A BILL TO REVISE AND REFORM THE IMMIGRATION AND NATIONALITY ACT, AND FOR OTHER PURPOSES

JUNE 17, 1983

Serial No. 98-28

Printed for the use of the Committee on Energy and Commerce

U.S. GOVERNMENT PRINTING OFFICE

23-094 O WASHINGTON : 1983

IMMIGRATION REFORM AND CONTROL ACT OF 1983

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

OF THE

COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

H.R. 1510

A BILL TO REVISE AND REFORM THE IMMIGRATION AND NATIONALITY ACT, AND FOR OTHER PURPOSES

JUNE 17, 1983

Serial No. 98-28

Printed for the use of the Committee on Energy and Commerce

U.S. GOVERNMENT PRINTING OFFICE

23-094 O WASHINGTON : 1983

COMMITTEE ON ENERGY AND COMMERCE

JOHN D. DINGELL, Michigan, *Chairman*

JAMES H. SCHEUER, New York
RICHARD L. OTTINGER, New York
HENRY A. WAXMAN, California
TIMOTHY E. WIRTH, Colorado
PHILIP R. SHARP, Indiana
JAMES J. FLORIO, New Jersey
EDWARD J. MARKEY, Massachusetts
THOMAS A. LUKEN, Ohio
DOUG WALGREN, Pennsylvania
ALBERT GORE, JR., Tennessee
BARBARA A. MIKULSKI, Maryland
AL SWIFT, Washington
MICKEY LELAND, Texas
RICHARD C. SHELBY, Alabama
CARDISS COLLINS, Illinois
MIKE SYNAR, Oklahoma
W. J. "BILLY" TAUZIN, Louisiana
RON WYDEN, Oregon
RALPH M. HALL, Texas
DENNIS E. ECKART, Ohio
WAYNE DOWDY, Mississippi
BILL RICHARDSON, New Mexico
JIM SLATTERY, Kansas
GERRY SIKORSKI, Minnesota
JOHN BRYANT, Texas
JIM BATES, California

JAMES T. BROYHILL, North Carolina
NORMAN F. LENT, New York
EDWARD R. MADIGAN, Illinois
CARLOS J. MOORHEAD, California
MATTHEW J. RINALDO, New Jersey
TOM CORCORAN, Illinois
WILLIAM E. DANNEMEYER, California
BOB WHITTAKER, Kansas
THOMAS J. TAUKE, Iowa
DON RITTER, Pennsylvania
DAN COATS, Indiana
THOMAS J. BLILEY, JR., Virginia
JACK FIELDS, Texas
MICHAEL G. OXLEY, Ohio
HOWARD C. NIELSON, Utah

FRANK M. POTTER, Jr., *Chief Counsel and Staff Director*
SHARON E. DAVIS, *Chief Clerk/Administrative Assistant*
DONALD A. WATT, *Printing Editor*
ARNOLD I. HAVENS, *Minority Counsel*

SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

HENRY A. WAXMAN, California, *Chairman*

JAMES H. SCHEUER, New York
THOMAS A. LUKEN, Ohio
DOUG WALGREN, Pennsylvania
BARBARA A. MIKULSKI, Maryland
RICHARD C. SHELBY, Alabama
RON WYDEN, Oregon
DENNIS E. ECKART, Ohio
GERRY SIKORSKI, Minnesota
RICHARD L. OTTINGER, New York
TIMOTHY E. WIRTH, Colorado
MICKEY LELAND, Texas
JOHN D. DINGELL, Michigan
(Ex Officio)

EDWARD R. MADIGAN, Illinois
WILLIAM E. DANNEMEYER, California
BOB WHITTAKER, Kansas
THOMAS J. BLILEY, Jr., Virginia
HOWARD C. NIELSON, Utah
JAMES T. BROYHILL, North Carolina
(Ex Officio)

KAREN NELSON, *Staff Director*
ANDREAS SCHNEIDER, *Assistant Counsel*
TIMOTHY WESTMORELAND, *Assistant Counsel*
ELLEN RIKER, *Associate Minority Counsel*

CONTENTS

IMMIGRATION REFORM AND CONTROL ACT OF 1983

FRIDAY, JUNE 17, 1983

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:15 a.m., in room 2123, Rayburn House Office Building (Hon. James H. Scheuer, presiding), Hon. Henry A. Waxman, chairman.

Mr. SCHEUER. The Subcommittee on Health and the Environment will come to order.

Congressman Henry Waxman has been detained on matters pertaining to the budget, so we will get started, and when he arrives he will take the chair.

I ask unanimous consent that Congressman Waxman's statement be put into the record. Is there objection?

There being no objection, so ordered.

[Mr. Waxman's statement follows:]

STATEMENT OF HON. HENRY A. WAXMAN

The Subcommittee has before it H.R. 1510, the Immigration Reform and Control Act of 1983.

The bill was reported by the Judiciary Committee with amendments on May 13, 1983. It was referred to the Energy and Commerce committee for consideration of those provisions within its jurisdiction. The referral expires on June 27, 1983.

The bill reflects a great deal of hard work by Chairman Mazzoli, Chairman Rodino, and their colleagues on the Judiciary Committee.

A companion bill, S. 529, was approved by the Senate on May 18 by a vote of 76-18.

The Mazzoli-Simpson bill makes a number of major changes in U.S. immigration policy. It proposes to control illegal immigration through a system of employer sanctions. It revises our current system of legal immigration, including the H-2 program for temporary entry of foreign agricultural workers. And it provides for the legalization of certain undocumented aliens now living in the U.S.

While many members of the Subcommittee [including myself] have concerns about various provisions in H.R. 1510, our jurisdiction is limited to those provisions which relate to public health and quarantine, and health and health facilities supported by general revenues. I would hope that we could keep our discussion focussed on these matters.

In my view, the Subcommittee jurisdiction clearly extends to those sections of the bill which relate to the public health and medical care provisions of the legalization program. I'd like to summarize those briefly at this point.

Section 301 of the bill amends the Immigration and Nationality Act to create a program for the legalization of undocumented persons. Aliens who can establish that they entered the U.S. illegally prior to January 1, 1982, and have resided here continuously since that time, and who meet the standards for admission, may apply

to have their status adjusted to that of an alien lawfully admitted for permanent residence.

Applicants will be required to undergo, at their own expense, a medical examination to establish that they should not be denied legalization for medical reasons. Applicants must also show that they will not be "public charges"—that is, that they are working and earning enough money to keep themselves out of poverty, or that someone with financial resources has agreed to take care of them.

Under the bill, undocumented aliens who are legalized through this program are prohibited from receiving any Federal assistance based on financial need, including Medicaid, for a period of 5 years from the date of legalization. The bill also allows States and localities to deny legalized aliens medical assistance for the same 5-year period.

There are three exceptions to this 5-year denial of Medicaid or other financial assistance: (1) in the case of Cuban-Haitian entrants; (2) in the case of aged, blind, or disabled individuals; and (3) in the case of individuals who need medical assistance "in the interest of public health or because of serious illness or injury."

Section 303 of the bill establishes a program of Federal assistance to States for the costs of serving the newly-legalized aliens. The Secretary would be required to reimburse the States for 100 percent of their costs, subject to amounts provided in advance in appropriations acts. The bill authorizes the appropriation of such sums as may be necessary for fiscal year 1984 through fiscal year 1987.

These State Legalization Assistance funds would be available only to pay for the costs of public assistance to the newly-legalized aliens. They would not be available to help the States and counties meet the costs of caring for undocumented aliens who do not apply for, or cannot qualify for, legalization.

Here's how the Fund would work. Assume an undocumented alien becomes legalized, and then two years later has an accident on the job and becomes permanently disabled. Once he runs out of money and qualifies for Medicaid, the State can then turn to the Federal government and ask it to reimburse 100 percent of the State's share of the cost of the payments that Medicaid has made on that person's behalf. Whether the State actually gets its reimbursement, of course, depends on the amounts Congress has appropriated in advance.

Mr. SCHEUER. I want to express my thanks and give commendation to Congressman Waxman for his leadership in calling for these hearings on a very critical national problem, the pressing problem of immigration. Likewise, I want to express my thanks to Congressman Romano Mazzoli of Kentucky and his colleagues on the Judiciary Committee for their efforts and leadership, especially Congressman Mazzoli's leadership in drafting the Immigration Reform and Control Act of 1983.

As we consider this legislation there are several factors that we ought to keep in mind. First, immigration to this country is a Federal problem. Immigrants cross national borders, they do not cross State borders. Thus, the solutions to problems generated by immigration, both legal and illegal, are quintessentially Federal in nature and should be considered as such at all times by the Congress and the executive branch. The Edwards amendment, sponsored by Congressman Don Edwards of California, which provides for reimbursement to cities and States for the costs of education and other social service costs to cities and States, should be retained in the final bill.

No one can say for sure how many illegal aliens currently reside in the United States. There are widely varying estimates. Up until a year or two ago they ranged from 2 to 12 million. Those are the figures we heard when I was chairman of the Select Committee on Population. The current estimate is anywhere from 2 to 6 million. In any event, figures cannot be certified with exactitude, but they are vast.

Here is our chairman.

How can we hope to judge the proportion of those residing here who will choose to come forward and be identified under a legalization program? How can we hope to make any thoughtful estimates of costs—the costs of providing these illegal immigrants with education, health, and other social services—if we are as fuzzy as we are on the numbers about who is going to be needing those services? And if neither the total number nor the projected number can be ascertained, then the proportion of those eligible for social and health services and those who will avail themselves of these services is even more in the realm of speculation. Nevertheless, it seems clear that by all estimates, by all the varying criteria, that staggering sums will have to be spent in the area of social services, particularly education and health, for those who would become eligible.

I read with interest the testimony of James Crosskauf, commissioner of human resources of the city of New York, who has upped his estimate of the annual costs of providing these services for New York City from $30 to $40 million, to between $50 million and $100 million, and perhaps he will explain to us how he has arrived at that recomputation.

It is the belief of many who have studied the bill and who are familiar with the problems of illegal immigration that the bare fact of the inclusion in the bill of a provision for legalization, or what has been called amnesty, in itself will serve as an enormously powerful pull agent, drawing in an increased number of aliens who anticipate that permanent residence can be attained despite their illegal entry once they show the documents that prove that they were here on the requisite date. And since a set of forged documents is easily available at modest cost to any who want them, it is not an unreasonable expectation that large, large numbers of people who have the dream of coming to the United States to avail themselves of all the benefits of this land of opportunity, as have we on this side of the aisle and you on that side of the aisle, it is not unreasonable to estimate that many of them will be powerfully motivated by the prospect of purchasing the forged documents and then availing themselves of the legalization or the amnesty provisions. So it is perfectly clear that the effect of the pull factors, the pull factors of our amnesty or our legalization are not unchanging. They depend on changing conditions in the sending countries. And these, of course, depend on the push factors down there.

The volatile push factors of the primary sending countries can be expected to accelerate almost exponentially in the decades to come, and as they do, the desire to migrate to the United States becomes even stronger. Persons in many countries throughout many ages have sought to cross national boundaries in search of a better life. That is the reason most of us are here, because our forefathers did that. It is certainly a laudable characteristic and an enviable goal. They have done that whether the anticipated improvements were economic, political, religious, or personal.

But in 1983 we are faced with conditions in developing countries never before experienced in the history of the world—demographic conditions, popularly known as the population explosion. It is the absolute uniqueness of the present demographic pressures and the spectacular increases that will take place in the next decade or two

in the labor markets around the world—millions and millions of young people coming into labor markets, coming into their working years for whom no jobs are available—that provides the sense of urgency and the necessity for us to develop policies to cope with an altogether new and different situation which our country has never had to face before.

Let me give you just one example of the stark and harsh realities that are producing this incredible acceleration in the push factor in sending countries. During the 17 years between now and the turn of the century the nations of Latin America and the Caribbean will have to produce 4 million jobs a year—4 million jobs annually merely to keep up with their present pitiful and horrendous rate of underemployment and unemployment. In the best of times, in the early 1970's, the United States, with five times the GNP of all Hispanic America, Central and South America, created only half that number of jobs. So it is beyond the realm of possibility, really, that Latin America is going to produce the 4 million jobs that would be needed just to maintain the present level of underemployment and unemployment.

According to the World Bank and the International Labor Organization, the developing world as a whole between now and the end of the century will have to create 650 million new jobs; again, just to maintain present levels of underemployment and unemployment. That is more than the entire employed population of the developed world. There is no conceivable possibility that such an increase in jobs is going to be effected. That means there is going to be increasing exponential joblessness and a vast acceleration in the push factors that send people across borders searching for a better life. We are going to be faced with staggering numbers of persons unable to fit into already overburdened economic structures in their own countries, coming to an economy that itself is overburdened. We must be mindful of the urgent need to provide development assistance to these sending countries, but in the present context we must also be mindful of the pressures that will be brought to bear on our own system as well.

[Testimony resumes on p. 107.]

[The text of H.R. 1510 follows:]

I

98TH CONGRESS
1ST SESSION

H. R. 1510

[Report No. 98–115, Part I]

To revise and reform the Immigration and Nationality Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 1983

Mr. MAZZOLI introduced the following bill; which was referred to the Committee on the Judiciary

MAY 13, 1983

Additional sponsors: Mr. ALEXANDER, Mr. ERLENBORN, and Mr. LUKEN

MAY 13, 1983

Reported with an amendment, referred to the Committees on Agriculture, Education and Labor, Energy and Commerce, and Ways and Means for a period ending not later than June 27, 1983, for consideration of such provisions of the bill and amendment as fall within the jurisdictions of those committees pursuant to clauses 1 (a), (g), (h), and (v) of rule X, respectively

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 17, 1983]

A BILL

To revise and reform the Immigration and Nationality Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES IN ACT

SECTION 1. (a) This Act may be cited as the "Immigration Reform and Control Act of 1983".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

TABLE OF CONTENTS

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 101. (a)(1) Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:

"UNLAWFUL EMPLOYMENT OF ALIENS

"SEC. 274A. (a)(1) It is unlawful for a person or other entity after the date of the enactment of this section to hire, or to recruit or refer for a fee or other consideration, for employment in the United States—

"(A) an alien knowing the alien is an unauthorized alien (as defined in paragraph (4)) with respect to such employment, or

"(B) an individual without complying with the requirements of subsection (b).

Subparagraph (B) shall not apply to a person or entity until the Attorney General, based upon evidence or information he deems persuasive, has notified the person or entity in writing that the person or entity has in his employ (or has referred or recruited) an unauthorized alien and the person or entity is thereafter required to comply with the requirements of subparagraph (B), except that any such person that voluntarily complies with such requirements before the date of such notification must comply with such requirements for all individuals with respect to which such requirements may apply.

"(2) It is unlawful for a person or other entity, after hiring an alien for employment subsequent to the date of the enactment of this section and in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States and has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

"(4) As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a

particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

"(5) For purposes of paragraphs (1)(B) and (3), a person or entity shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of an individual who was referred for such employment by a State employment agency (as defined by the Attorney General), if the person or entity has and retains (for the period and in the manner described in subsection (b)(3)) appropriate documentation of such referral by that agency, which documentation certifies that the agency has complied with the procedures specified in subsection (b) with respect to the individual's referral.

"(b) Except as provided in subsection (c), the requirements and procedures referred to in paragraphs (1)(B), (3), and (5) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, that—

"(1) the person or entity must attest, under penalty of perjury and on a form designated or established by the Attorney General by regulation, that it has verified that the individual is eligible to be employed (or

recruited or referred for employment) in the United States by examining the individual's—

"(A) United States passport, or

"(B)(i) social security account number card or certificate of birth in the United States or establishing United States nationality at birth, and

"(ii)(I) alien documentation, identification, and telecommunication card, or similar alien registration card issued by the Attorney General to aliens and designated for use for this purpose,

"(II) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section, or

"(III) in the case of individuals under sixteen years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in subclause (II), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification;

"(2) the individual must attest, on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment; and

"(3) after completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or of the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

"(A) in the case of the recruiting or referral (without hiring) of an individual, three years after the date of such recruiting or referral, and

"(B) in the case of the hiring of an individual—

"(i) three years after the date of such hiring, or

"(ii) one year after the date the individual's employment is terminated,

whichever is later.

A person or entity has complied with paragraph (1) with respect to examination of a document if the document reason-

ably appears on its face to be genuine. Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection. A person or entity has complied with the requirements of this subsection, with respect to the hiring of an individual, if the requirements of this subsection are first met not later than noon of the day following the day on which the individual is first employed by that person or entity. A form designated or established by the Attorney General under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this section or section 1546 of title 18, United States Code.

"(c)(1)(A) Within three years after the date of the enactment of this section, the President shall study and report to the Congress concerning the possible need for and costs of changes in or additions to the requirements of subsection (b) as conform to the requirements of paragraph (2) of this subsection and as may be necessary to establish a secure system to determine employment eligibility in the United States. In considering possible changes or additions, the President shall consider use of a telephone verification system.

"(B) Nothing in this subsection shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards.

"(2) Such changes or additions shall be designed in a manner so that—

"(A) personal information utilized by the system is available only to employers, recruiters, and referrers for employment and to Government agencies and only to the extent necessary for the purpose of verifying that an individual is not an unauthorized alien,

"(B) if the changes or additions provide a verification method to determine an individual's eligibility to be employed in the United States—

"(i) the verification may not be withheld for any reason other than that the individual is an unauthorized alien, and

"(ii) the verification method may not be used for law enforcement purposes (other than for enforcement of this section or section 1546 of title 18, United States Code), and

"(C) if the system requires individuals to present a card or other document designed specifically for use for this purpose at the time of hiring, recruitment, or referral, then such document may not be required (i) to be presented for any purpose other than under this sec-

tion (or enforcement of section 1546 of title 18, United States Code) or (ii) to be carried on one's person.

"(d)(1)(A) In the case of a person or entity which has not previously been cited under this subparagraph, if the Attorney General, based on evidence or information he deems persuasive, reasonably concludes that the person or entity has hired, or has recruited or referred for a fee or other consideration, for employment in the United States an unauthorized alien, the Attorney General may serve a citation on the person or entity containing a notification that the alien's employment is not authorized and a warning of the penalties and injunctive remedy set forth in this subsection.

"(B) In the case of a person or entity which has previously been cited under subparagraph (A), which is determined (after notice and opportunity for an adminstrative hearing under paragraph (4)(A)(i)) to have violated paragraph (1)(A) or (2) of subsection (a), and which—

"(i) has not previously been subject to a civil penalty under this subparagraph, the person or entity shall be subject to a civil penalty of $1,000 for each unauthorized alien with respect to which the violation occurred, or

"(ii) has previously been subject to a civil penalty under this subparagraph in one or more instances, the person or entity shall be subject to a civil penalty of

$2,000 for each unauthorized alien with respect to which the violation occurred.

"(C) A person or entity which violates paragraph (1)(A) or (2) of subsection (a) and which has previously been subject to a civil penalty under subparagraph (B) in two or more instances shall be fined not more than $3,000, imprisoned not more than one year, or both, for each unauthorized alien with respect to which the violation occurred.

"(2) Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the United States district court for the district in which the person or entity resides or in which the violation occurred requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

"(3) A person or entity which is determined (after notice and opportunity for an administrative hearing under paragraph (4)(A)(i)) to have violated subsection (a)(1)(B) shall be subject to a civil penalty of $500 for each individual with respect to which such violation occurred.

"(4)(A)(i) Before issuing a citation on, or imposing a civil penalty against, a person or entity under this subsection

for a violation of subsection (a), the Attorney General shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than thirty days, as established by the Attorney General) of the date of the notice, a hearing respecting the violation.

"(ii) Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code and rules of the United States Immigration Board established under section 107. The hearing shall be held within two hundred miles of the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the assessment shall constitute a final and unappealable order.

"(iii) A person or entity (including the Attorney General) adversely affected by a final order respecting an assessment may, within sixty days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(B)(i) If the person or entity against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in the United States district court for the district in which the person or entity resides or in which the

violation (with respect to which the penalty was assessed) occurred.

"(ii) In any suit described in clause (i) based on an assessment—

"(I) made after a hearing before an administrative law judge, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the administrative law judge's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, or

"(II) for which a timely request for a hearing was not made, the validity and appropriateness of the final order imposing the assessment shall not be subject to review.

"(5)(A) In determining the level of sanction that is applicable under paragraph (1) for violations of paragraph (1)(A) or (2) of subsection (a), determinations of more than one violation in the course of a single proceeding or adjudication shall be counted as a single determination.

"(B) In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referral for employment without reference to the practices of, or under the control of, or common control with,

another subdivision, each such subdivision shall be considered a separate person or entity.

"(e) In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) authorized to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(f) The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or recruit or refer for a fee or other consideration for employment, unauthorized aliens.

"(g)(1) The President shall monitor, and shall consult with the Congress every six months concerning, the implementation of this section (including the effectiveness of the verification and recordkeeping system described in subsection (b) and the status of the changes and additions described in subsection (c)) and the impact of this section on the economy of the United States and on employment (including discrimination in employment) of citizens and aliens in the United States, on the illegal entry of aliens into the United States, and on the failure of aliens who have legally entered the United States to remain in legal status.

"(2)(A) The Civil Rights Commission shall monitor the implementation and enforcement of the provisions of this section and shall investigate allegations that the enforcement or implementation of this section has been conducted in a manner that results in unlawful discrimination by race or nationality against citizens of the United States or aliens who are not unauthorized aliens (as defined in subsection (a)(4)).

"(B) The Civil Rights Commission, not later than eighteen months after the month in which this section is enacted, shall prepare and transmit to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing the implementation and enforcement of the provisions of this section during the preceding period, for the purpose of determining if a pattern of such unlawful discrimination has resulted. Two more such reports shall be prepared and transmitted thirty-six and fifty-four months after the month in which this section is enacted.

"(3) The Attorney General, jointly with the Secretary of Labor and the Chairman of the Equal Employment Opportunity Commission, shall establish a taskforce to monitor the implementation of this section and to review and investigate complaints registered of employment discrimination which may be attributable to the operation of this section.".

(2)(A) No citation, civil or criminal penalty, or injunction may be issued under section 274A of the Immigration and Nationality Act for the hiring, or recruiting or referring for a fee or other consideration, for employment of individuals occurring before the first day of the seventh month beginning after the date of the enactment of this Act.

(B) During the one-year period beginning on the date of the enactment of this Act, the Attorney General, in cooperation with the Secretaries of Agriculture, Commerce, Health and Human Services, Labor, and the Treasury and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of section 274A of the Immigration and Nationality Act.

(C) The Attorney General shall, not later than the first day of the seventh month beginning after the date of the enactment of this Act, first issue, on an interim or other basis, such regulations as may be necessary in order to implement section 274A of the Immigration and Nationality Act.

(3) The table of contents is amended by inserting after the item relating to section 274 the following new item:

"Sec. 274A. Unlawful employment of aliens.".

(b)(1) The Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97–470) is amended—

(A) by striking out "101(a)(15)(H)(ii) and 214(c)" in paragraphs (8)(B) and (10)(B) of section 3 (29 U.S.C. 1802) and inserting in lieu thereof "101(a)(15)(H)(ii)(a), 101(a)(15)(O), 214(c), and 214(e)";

(B) in section 103(a) (29 U.S.C. 1813(a))—

(i) by striking out "or" at the end of paragraph (4),

(ii) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and

(iii) by adding at the end the following new paragraph:

"(6) has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act.";

(C) by striking out section 106 (29 U.S.C. 1816) and the corresponding item in the table of contents; and

(D) by striking out "section 106" in section 501(b) (29 U.S.C. 1856(b)) and by inserting in lieu thereof "paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act".

(2) The amendments made by paragraph (1) shall apply to the employment, recruitment, referral, or utilization of the

services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act.

FRAUD AND MISUSE OF CERTAIN DOCUMENTS

SEC. 102. (a) Section 1546 of title 18, United States Code, is amended—

*(1) by amending the heading to read as follows: "**§1546. Fraud and misuse of visas, permits, and other documents**";*

(2) by striking out "or other document required for entry into the United States" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",

(3) by striking out "or document" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",

(4) by striking out "$2,000" and inserting in lieu thereof "$5,000",

(5) by inserting "(a)" before "Whoever" the first place it appears, and

(6) by adding at the end the following new subsections:

"(b) Whoever knowingly uses an identification document (other than one issued lawfully for the use of the possessor) or a false identification document or a false attestation for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined not more than $5,000 or imprisoned not more than two years, or both.

"(c) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).".

(b) The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:

"1546. Fraud and misuse of visas, permits, and other documents.".

PART B—ENFORCEMENT AND FEES

IMMIGRATION ENFORCEMENT ACTIVITIES AND AUTHORIZATION OF APPROPRIATIONS

SEC. 111. (a) An essential element of the program of immigration control and reform established by this Act is an increase in border patrol and other enforcement activities of the Immigration and Naturalization Service and of other appropriate Federal agencies in order to prevent and deter the illegal entry of aliens into the United States.

(b)(1) Section 404 (8 U.S.C. 1101 note) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS AND IMMIGRATION EMERGENCY FUND

"SEC. 404. (a) There are authorized to be appropriated to the Department of Justice for the Immigration and Naturalization Service for the purpose of carrying out this Act (other than chapter 2 of this title)—

"(1) for fiscal year 1984, $716,550,000,

"(2) for fiscal year 1985, $689,232,000, and

"(3) for fiscal year 1986, $731,327,000.

"(b) In addition to the funds authorized to be appropriated under subsection (a), there are authorized to be appropriated for each of fiscal years 1984, 1985, and 1986, not less than $6,000,000, for the activities of the task force described in section 274A(g)(3).

"(c) There are authorized to be appropriated to an immigration emergency revolving fund, to be established in the Treasury, $35,000,000, to be used to provide for an increase in border patrol or other enforcement activities of the Service and for reimbursement of State and localities in providing assistance to the Attorney General in meeting an immigration emergency, except that no amounts may be withdrawn from such fund with respect to an emergency unless the President has determined that the immigration emergency exists and has certified such fact to the Judiciary Committees of the House of Representatives and of the Senate.".

(2) In addition to the funds otherwise authorized to be appropriated for fiscal year 1983, there are authorized to be appropriated for such fiscal year to the Department of Justice for the Immigration and Naturalization Service $35,480,000.

(3) The item in the table of contents relating to section 404 is amended to read as follows:

"Sec. 404. Authorization of appropriations and immigration emergency fund.".

UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES

SEC. 112. Section 274 (8 U.S.C. 1324) is amended—

(1) by striking out ": Provided, however" and all that follows up to the period at the end of subsection (a),

(2) by inserting "or subsection (c)" in subsection (b)(1) after "subsection (a)",

(3) by redesignating subsection (c) as subsection (d), and

(4) by inserting after subsection (b) the following new subsection:

"(c) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States such alien by himself or through another in any manner whatsoever, regardless of whether or not fraudulent, evasive, or surreptitious means are used and regardless of any official action which may later be taken with respect to such alien, shall, for each transaction constituting a violation of this subsection (regardless of the number of aliens involved)—

"(1) be fined not more than $5,000 or imprisoned not more than one year, or both, or

"(2) in the case of—

"(A) a second or subsequent offense under this subsection,

"(B) an offense done for the purpose of commercial advantage or private gain, or

"(C) an offense in which the alien is not upon arrival immediately brought and presented

to an appropriate immigration officer at a designated port of entry,

be fined not more than $10,000 or imprisoned not more than five years, or both.".

FEES

SEC. 113. (a) Section 281 (8 U.S.C. 1351) is amended—

(1) by amending the heading to read as follows: "NONIMMIGRANT VISA FEES AND ALIEN USER FEES";

(2) by inserting "(a)" after "SEC. 281."; and

(3) by adding at the end the following new subsection:

"(b) The Attorney General, in consultation with the Secretary of State, may impose fees on aliens with respect to their use of border facilities or services of the Service in such amounts as may reasonably reflect the portion of costs of maintenance and operation of such facilities and provision of such services attributable to aliens' use of such facilities and services.".

(b) The item in the table of contents relating to section 281 is amended to read as follows:

"Sec. 281. Nonimmigrant visa fees and alien user fees.".

RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR OPERATIONS

SEC. 114. Section 287 (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service shall not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States or for activities related to that purpose.".

PART C—ADJUDICATION PROCEDURES AND ASYLUM INSPECTION AND EXCLUSION

SEC. 121. Subsection (b) of section 235 (8 U.S.C. 1225) is amended to read as follows:

"(b)(1)(A) An immigration officer shall inspect each alien who is seeking entry to the United States.

"(B)(i) If the examining immigration officer determines that the alien seeking entry—

"(I) does not present the documentation required (if any) to obtain entry to the United States,

"(II) does not have any reasonable basis for legal entry into the United States, and

"(III) does not indicate an intention to apply for asylum under section 208,

subject to clause (ii), the alien shall be excluded from entry into the United States without a hearing.

"(ii) Before excluding an alien without a hearing under clause (i), the examining immigration officer shall inform the alien of his right to be represented by counsel (in accordance with section 292) and to have an administrative law judge redetermine the conditions described in clause (i). If the alien requests such a redetermination by an administrative law judge, the alien shall not be so excluded without a hearing until and unless the administrative law judge (after a nonadversarial, summary proceeding in which the alien may appear personally) redetermines that the alien meets the conditions of subclauses (I) through (III) of clause (i).

"(C) If the examining immigration officer determines that an alien seeking entry, other than an alien crewman and except as otherwise provided in subparagraph (B), subsection (c), or section 273(d), is otherwise not clearly and beyond a doubt entitled to land, the alien shall be detained for a hearing before an administrative law judge on exclusion of the alien.

"(2) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to land is so challenged, before an administrative law judge for a hearing on exclusion of the alien.

"(3) The Attorney General shall establish, after consultation with the Judiciary Committees of the Congress, procedures which assure that aliens are not excluded under paragraph (1)(B) without an inquiry into their reasons for seeking entry into the United States.

"(4) In the case of an alien who would be excluded from entry under paragraph (1)(B) but for indicating an intention to apply for asylum, the exclusion hearing with respect to such entry shall be limited to the issues raised in connection with the alien's application for asylum.".

UNITED STATES IMMIGRATION BOARD AND ESTABLISHMENT OF ADMINISTRATIVE LAW JUDGE SYSTEM

SEC. 122. (a) Title I is amended by adding at the end the following new section:

"UNITED STATES IMMIGRATION BOARD; USE OF ADMINISTRATIVE LAW JUDGES

"SEC. 107. (a)(1) There is established, as an independent agency in the Department of Justice, a United States Immigration Board (hereinafter in this section referred to as the 'Board') composed of a Chairman and six other members appointed by the President by and with the advice and consent of the Senate.

"(2) The term of office of the Chairman and all other members of the Board shall be six years except that—

"(A) of the members first appointed under this subsection, two shall be appointed for a term of two years, two shall be appointed for a term of four years, and three shall be appointed for a term of six years,

"(B) a member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and

"(C) a member may serve after the expiration of his term until reappointed or his successor has taken office.

"(3) A member of the Board may be removed by the President only for neglect of duty or malfeasance in office.

"(4) Members of the Board (other than the Chairman) are entitled, subject to the amounts provided in advance in appropriation Acts, to receive compensation at the rate now or hereafter provided for grade GS–17 of the General Schedule, under section 5332 of title 5, United States Code. The Chairman is entitled, subject to the amounts provided in advance in appropriation Acts, to receive compensation at the rate now or hereafter provided for grade GS–18 of such General Schedule.

"(5) The Chairman shall be responsible on behalf of the Board for the administrative operations of the Board. The

Board shall establish rules of practice and procedure for itself and for the administrative law judges.

"(b)(1) The Board shall hear and determine appeals from—

"(A) final decisions of administrative law judges under this Act, other than a redetermination excluding an alien under section 235(b)(1)(B)(ii) or a determination granting voluntary departure under section 244(e) within a period of at least thirty days if the sole ground of appeal is that a greater period of departure time should have been fixed;

"(B) decisions on applications for the exercise of the discretionary authority contained in section 212(c) or section 212(d)(3)(B);

"(C) decisions involving the imposition of administrative fines and penalties under title II of this Act, including mitigation thereof;

"(D)(i) decisions on petitions filed in accordance with section 204, other than petitions to accord preference status under paragraph (3) or (6) of section 203(a) or petitions on behalf of a child described in section 101(b)(1)(F), and

"(ii) decisions on requests for revalidation and decisions revoking approval of such petitions under section 205;

"(E) determinations relating to bond, parole, or detention of an alien under sections 242(a) and 242(c); and

"(F) such other administrative decisions and determinations under this Act as the Attorney General may provide by regulation.

"(2) Three members of the Board constitute a quorum of the Board, except that the Chairman (or any member of the Board designated by the Chairman) is empowered to decide nondispositive motions.

"(3) The Board shall act in panels of three or more members or in banc (as designated by the Chairman in accordance with the rules of the Board). A final decision of such a panel shall be considered to be a final decision of the Board.

"(4)(A) Appeals to the Board from final orders of deportation or exclusion (including an order respecting asylum contained in such an order) shall be filed not later than twenty days after the date of the final order.

"(B) The Board shall review the decision of an administrative law judge based solely upon the administrative record upon which the decision is made and the findings of fact in the judge's order, if supported by reasonable, substantial, and probative evidence on the record considered as a whole, shall be conclusive.

"(5) A final decision of the Board shall be binding on all administrative law judges, immigration officers, and consular officers under this Act unless and until otherwise modified or reversed by a court of the United States.

"(6) In a case in which the Board is considering an appeal of a decision of an administrative law judge respecting an application for asylum, the Board shall render its decision on the appeal not later than sixty days after the date the appeal is filed.

"(c)(1) The Chairman, in accordance with sections 3105 and 5108 and other provisions of title 5, United States Code, relating to administrative law judges in the competitive service, shall—

"(A) appoint administrative law judges, and

"(B) designate one such judge to serve as chief administrative law judge.

"(2) In accordance with rules established by the Board, the chief administrative law judge—

"(A) shall have responsibility for the administrative activities affecting administrative law judges, and

"(B) may designate any administrative law judge in active service to hear and decide any cases described in paragraph (3).

"(3) Administrative law judges shall hear and decide—

"(A) exclusion cases under sections 236 and 360(c),

"(B) deportation and suspension of deportation cases under sections 242, 243, and 244,

"(C) rescission of adjustment of status cases under section 246,

"(D) with respect to judges designated to hear such cases, applications for asylum under section 208,

"(E) the assessment of civil penalties under section 274A, and

"(F) such other cases arising under this Act as the Attorney General may provide by regulation.

Administrative law judges may also, without a formal hearing, make redeterminations pursuant to section 235(b)(1)(B)(ii).

"(4) In considering and deciding cases coming before them, administrative law judges may administer oaths, shall record and receive evidence and render findings of fact and conclusions of law, shall determine all applications for discretionary relief which may properly be raised in the proceedings, and shall exercise such discretion conferred upon the Attorney General by law as the Attorney General may specify for the just and equitable disposition of cases coming before such judges.".

(b) The table of contents is amended by inserting immediately after the item relating to section 106 the following new item:

"Sec. 107. United States Immigration Board; use of administrative law judges.".

JUDICIAL REVIEW

SEC. 123. (a) Subsection (a) of section 106 (8 U.S.C. 1105a) is amended—

(1) by striking out "AND EXCLUSION" in the heading and inserting in lieu thereof ", EXCLUSION, AND ASYLUM";

(2) in the matter before paragraph (1), by striking out "The procedure" and all that follows through "any prior Act" and inserting in lieu thereof the following: "Notwithstanding section 279 of this Act, section 1331 of title 28, United States Code, or any other provision of law (except as provided under subsection (b)), the procedures prescribed by and all the provisions of chapter 158 of title 28, United States Code, shall apply to, and shall be the sole and exclusive procedure for, the judicial review of all final orders of exclusion or deportation (including determinations respecting asylum encompassed within such orders and regardless of whether or not the alien is in custody and not including exclusions effected without a hearing pursuant to section 235(b)(1)(B)) made against aliens within (or seeking entry into) the United States";

(3) in paragraph (1), by striking out "not later than six months" and all that follows through "whichever is the later" and inserting in lieu thereof "by the alien involved or the Service not later than sixty days from the date of the final order";

(4) inserting ", in the case of review sought by an individual petitioner," in paragraph (2) after "in whole or in part, or";

(5) by inserting "in the case of review sought by an individual petitioner," in paragraph (3) after "(3)";

(6) by inserting "exclusion or" before "deportation" in paragraphs (3) and (4);

(7) by striking out "Attorney General's findings of fact" in paragraphs (4) and (6) and inserting in lieu thereof "findings of fact in the order";

(8) by striking out "(4) except as provided in" in paragraph (4) and inserting in lieu thereof "(4)(A) except as provided in subparagraph (B) and in";

(9) by adding at the end of paragraph (4) the following new subparagraph:

"(B) to the extent that an order relates to a determination on an application for asylum, the court shall only have jurisdiction to review (i) whether the jurisdiction of the administrative law judge or the United States Immigration Board was properly exercised, (ii)

whether the asylum determination was made in accordance with applicable laws and regulations, (iii) the constitutionality of the laws and regulations pursuant to which the determination was made, and (iv) whether the decision was arbitrary or capricious;";

(10) in paragraph (7)—

(A) by inserting "or exclusion" after "deportation" each place it appears,

(B) by striking out "subsection (c) of section 242 of this Act" and inserting in lieu thereof "section 235(b) or 242(c)", and

(C) by striking out "a deportation order;" and inserting in lieu thereof "an exclusion or deportation order; and";

(11) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof a period; and

(12) by striking out paragraph (9).

(b) Subsection (b) of such section is amended to read as follows:

"(b)(1)(A) Nothing in the provisions of this section shall be construed as limiting the right of habeas corpus under chapter 153 of title 28, United States Code. Petitions for habeas corpus based upon custody effected pursuant to this Act may be brought individually or on a multiple party basis as the interests of judicial efficiency and justice may require.

"(B) Nothing in this section shall preclude a class action under section 279 or under section 1331 of title 28, United States Code where—

"(i) the action alleges a pattern or practice of violations of provisions of the Constitution;

"(ii) administrative remedies have not been exhausted, but the exhaustion of administration remedies is inappropriate; and

"(iii) a delay of a determination on the issues presented pending judicial review under subsection (a) would significantly and irreparably impair the rights of the class members in the proceedings, and a timely determination of such rights would be most consistent with providing for the efficient judicial review of the issues presented.

This subparagraph shall not be construed as permitting district courts to review individual determinations in exclusion, deportation, or asylum cases. In any action under this subparagraph, the court shall, to the extent practicable, prevent unnecessary delays in the conduct of the exclusion, deportation, or asylum proceedings.

"(2) No court shall have jurisdiction to entertain a petition relating to a determination concerning asylum under section 208 except in a petition for review under subsection (a).

"(3) Notwithstanding any other provision of law, no court of the United States shall have jurisdiction to review determinations of administrative law judges or of the United States Immigration Board respecting the reopening or reconsideration of exclusion or deportation proceedings or asylum determinations outside of such proceedings, the reopening of an application for asylum because of changed circumstances, the Attorney General's denial of a stay of execution of an exclusion or deportation order, or a redetermination to exclude an alien from entering the United States under section 235(b)(1)(B)(ii).".

(c) Subsection (c) of such section is amended by striking out "deportation or of exclusion" and inserting in lieu thereof "an administrative law judge".

(d) Section 279 (8 U.S.C. 1329) is amended by striking out "The district courts" in the first sentence and inserting in lieu thereof "Except as otherwise provided under section 106, the district courts".

(e) The item in the table of contents relating to section 106 is amended to read as follows:

"Sec. 106. Judicial review of orders of deportation, exclusion, and asylum.".

(f) In the case of a final order of deportation or exclusion entered before the date of the enactment of this Act, a petition for review with respect to that order may in no case be filed under section 106(a)(1) of the Immigration and Nationality Act later than the earlier of (1) sixty days after the

date of the enactment of this Act, or (2) the date (if any) such petition was required to be filed under the law in existence before the date of the enactment of this Act.

ASYLUM

SEC. 124. (a)(1) Subsection (a) of section 208 (8 U.S.C. 1158) is amended to read as follows:

"(a)(1)(A) Except as provided in subparagraph (B), any alien physically present in the United States or at a land border or port of entry may apply for asylum in accordance with this section.

"(B)(i) In the case of an alien against whom exclusion or deportation proceedings have been instituted, the alien's application for asylum may not be considered unless—

"(I) not later than fourteen days after the date of the service of the notice instituting such proceedings, the alien has filed notice of intention to file an application for asylum and, not later than thirty days after the date of filing such notice of intention, the alien has actually filed the application for asylum,

"(II) the alien can make a clear showing, to the satisfaction of the administrative law judge conducting the proceeding, that changed circumstances after the date of the notice instituting the proceeding have resulted in a change in the basis for the alien's claim for asylum, or

"(III) the administrative law judge determines, solely in his discretion, that the interests of justice require the consideration of the application.

"(ii) An alien who has previously applied for asylum and had such application denied may not again apply for asylum unless the alien can make a clear showing that changed circumstances after the date of the denial of the previous application have resulted in a change in the basis for the alien's claim for asylum.

"(2) Applications for asylum shall be considered before administrative law judges who are specially designated by the United States Immigration Board as having special training in international relations and international law. An individual who has served as a special inquiry officer under this title before the date of the enactment of the Immigration Reform and Control Act of 1983 may not be designated to hear applications under this section, unless the individual has received such special training after the date of the enactment of such Act.

"(3)(A)(i) Upon the filing of an application for asylum, an administrative law judge, at the earliest practicable time and after consultation with the attorney for the Government and the applicant, shall set the application for hearing on a day certain or list it for trial on a weekly or other short-term hearing calendar, so as to assure a speedy hearing.

"(ii) Unless the applicant consents in writing to the contrary, the hearing on the asylum application shall commence not later than forty-five days after the date the application has been filed. The holding of an asylum hearing shall not delay the holding of any exclusion or deportation proceeding.

"(iii) In the case of an alien who has filed an application for asylum and who has been continuously detained pursuant to section 235 or 242 since the date the application was filed, if a hearing on the application is not held on a timely basis under clause (ii) or a decision on the application rendered on a timely basis under subparagraph (D), and if actions or inaction by the applicant have not resulted in unreasonable delay in the proceedings, the Attorney General shall provide for the release of the alien on parole subject to such reasonable conditions as the Attorney General may establish to assure the presence of the alien at any appropriate proceedings, unless the Attorney General has reason to believe that the release of the alien would pose a danger to any other person or to the community.

"(B)(i) A hearing on the asylum application shall be open to the public, unless the applicant requests that it be closed to the public.

"(ii) At the time of filing of notice of intention to apply for asylum, the alien shall be advised of the privilege of being

represented by counsel (in accordance with section 292) and of the availability of legal services.

"(iii) The applicant is entitled to have the asylum hearing closed to the public, to present evidence and witnesses in his own behalf, to examine and object to evidence against him, and to cross-examine witnesses presented by the Government.

"(C) A complete record of the proceedings and of all testimony and evidence produced at the hearing shall be kept. The hearing shall be recorded verbatim. The Attorney General, and the United States Immigration Board, shall provide that a transcript of a hearing held under this section is made available not later than ten days after the date of completion of the hearing.

"(D) The administrative law judge shall render a determination on the application not later than thirty days after the date of completion of the hearing. The determination of the administrative law judge shall be based only on the evidence produced at the hearing.

"(E) The Attorney General shall allocate sufficient resources so as to assure that applications for asylum are heard and determined on a timely basis under this paragraph.

"(4) An alien may be granted asylum only if the administrative law judge determines that the alien (A) is a refugee within the meaning of section 101(a)(42) (A), and (B)

does not meet a condition described in one of the subparagraphs of section 243(h)(2).

"(5) The burden of proof shall be upon the alien applying for asylum to establish that the alien is a refugee within the meaning of section 101(a)(42)(A).

"(6) After making a determination on an application for asylum under this section, an administrative law judge may not reopen the proceeding at the request of the applicant except upon a clear showing that, since the date of such determination, changed circumstances have resulted in a change in the basis for the alien's claim for asylum.".

(2) Subsection (b) of such section is amended by inserting "(1)" after "determines that the alien" and by inserting before the period at the end the following: ", or (2) meets a condition described in one of the subparagraphs of section 243(h)(2)".

(3) Such section is further amended by adding at the end the following new subsections:

"(d) The procedures set forth in this section shall be the sole and exclusive procedure for determining asylum.

"(e) The Attorney General shall report to the Congress annually on the number of applications for asylum (by country of nationality of applicant) (1) submitted during the year, (2) approved during the year, (3) denied during the year, and (4) pending at the end of the year, and shall also include in

such report such other general information relating to such applications as may be appropriate.".

(b) Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:

"(3) An application for relief under this subsection shall be considered to be an application for asylum under section 208 and shall be considered in accordance with the procedures set forth in that section.".

(c) Section 222(f) (8 U.S.C. 1202(f)) is amended—

(1) by inserting "(whether as an immigrant, nonimmigrant, refugee, or otherwise)" after "enter the United States",

(2) by inserting "(1)" after "(f)" and

(3) by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), the records or any document of the Department of Justice, the Department of State, or any other Government agency, or foreign government, pertaining to the approval or denial of any application for asylum or withholding of deportation under sections 207 and 243(h) of this Act, or any other application arising under a claim of persecution on account of race, religion, political opinion, nationality, or membership in a particular social group, shall be confidential and exempt from disclosure and shall be used only for the formulation,

amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States. In the discretion of the Attorney General or the Secretary of State, as the case may be, certified copies of such records or document may be made available to a court which certifies that the information contained in such records or document is needed by the court in the interests of the ends of justice in a case pending before the court.

"(B) In the case of an applicant for asylum or withholding of deportation who seeks records or documents revelant to that particular application, subparagraph (A) shall not be construed as limiting that applicant's access to such records or documents except insofar as such records or documents otherwise are exempt from disclosure under section 552(b) of title 5, United States Code.".

EFFECTIVE DATES AND TRANSITION

SEC. 125. (a)(1) Except as otherwise provided in this section, the amendments made by this part take effect on the date of the enactment of this Act.

(2)(A) Except as provided in subparagraph (B), the amendments made by this part (other than those made by sections 121, 123(a)(2), 123(a)(3), 123(a)(6), 123(a)(10), 123(a)(12), 123(b), 123(d), and 124(b)) shall not apply to—

(i) any exclusion or deportation proceeding (or administrative or judicial review thereof) which was ini-

tiated before the hearing transition date (designated under subsection (c)(1)(A)), or

(ii) to any application for asylum filed before the asylum transition date (designated under subsection (c)(1)(B)).

In the case of such proceedings and such applications initiated before such dates which continue after such dates, the United States Immigration Board shall provide that administrative law judges may assume and perform such functions of special inquiry officers as may be appropriate and consistent with their duties as administrative law judges.

(B) Paragraphs (1)(B), (3)(B)(ii), (3)(B)(iii), (4), and (6) of section 208(a) and section 208(b) of the Immigration and Nationality Act (as amended by section 124(a) of this part) shall apply to applications for asylum made after the date of the enactment of this Act, except that—

(i) in the case of an alien against whom exclusion or deportation proceedings have been instituted as of the date of the enactment of this Act, the restriction of paragraph (1)(B)(i) of section 208(a) of the Immigration and Nationality Act (as so amended) shall apply to asylum applications made more than 14 days after the date of the enactment of this Act (rather than the date of the service of the notice of such exclusion or deportation proceeding), and

(ii) references in any such paragraph to an administrative law judge shall be deemed (before the asylum transition date) to be a reference to the immigration officer conducting the asylum hearing.

(b)(1) The President shall nominate the Chairman and other members of the United States Immigration Board (hereinafter in this section referred to as the "Board") not later than forty-five days after the date of the enactment of this Act.

(2) The Chairman, in consultation with the Attorney General, shall designate a date, not later than forty-five days after the Chairman and a majority of the members of the Board are appointed, on which the Board shall assume the present functions of the Board of Immigration Appeals (under existing rules and regulations).

(3)(A) The Board shall provide promptly for establishment of interim final rules of practice and procedure which will apply to the Board (when not acting as the Board of Immigration Appeals under paragraph (2)) and administrative law judges under the Immigration and Nationality Act, after the hearing transition date or asylum transition date, designated under subsection (c)(1), as the case may be.

(B) Not later than sixty days after the date such interim final rules are established, the Chairman shall appoint at least ten administrative law judges who are qualified to be

designated to hear asylum cases under section 208 of the Immigration and Nationality Act. The Board shall provide for such special training of these administrative law judges as it deems appropriate.

(c)(1) In order to provide for the orderly transfer of proceedings from the existing special inquiry system to the administrative law judge system, the Board, in consultation with the Attorney General, shall designate—

(A) a "hearing transition date", to be not later than forty-five days after the date interim final rules of practice and procedure are established under subsection (b)(3)(A), and

(B) an "asylum transition date", after the establishment of interim final rules of practice and procedure respecting applications for asylum and after the appointment and designation of administrative law judges, in accordance with section 3105 of title 5, United States Code, under subsection (b)(3)(B).

(2) During the period before the hearing transition date or the asylum transition date (in the case of asylum hearings), any proceeding or hearing under the Immigration and Nationality Act which may be conducted by a special inquiry officer may be conducted by an individual appointed and qualified as an administrative law judge in accordance with

all the rules and procedures otherwise applicable to a special inquiry officer's conduct of such proceeding or hearing.

(d) Individuals acting as special inquiry officers on the date of the enactment of this Act and on the hearing transition date may (without regard to other provisions of law) continue to conduct proceedings or hearings under the Immigration and Nationality Act after such transition date during the period ending two years after the date of the enactment of this Act.

(e)(1) The enactment of this part shall not result in any loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Board of Immigration Appeals or before special inquiry officers on the day before the date this Act takes effect.

(2) Under rules established by the United States Immigration Board, with respect to exclusion and deportation cases pending as of the hearing transition date and applications for asylum pending as of the asylum transition date, the United States Immigration Board shall be deemed to be a continuation of the Board of Immigration Appeals and administrative law judges shall be deemed to be a continuation of special inquiry officers for the purposes of effectuating the continuation of all existing powers, rights, and jurisdiction.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 126. (a)(1) Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(43) The term 'administrative law judge' means such a judge appointed under section 107.".

(2) Section 101(b) (8 U.S.C. 1101(b)) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) The first sentence of section 234 (8 U.S.C. 1124) is amended by striking out "special inquiry officers" and inserting in lieu thereof "administrative law judges".

(c)(1) Subsection (a) of section 235 (8 U.S.C. 1225) is amended—

(A) by striking out "special inquiry officers" in the first sentence and inserting in lieu thereof "administrative law judges",

(B) by striking out ", including special inquiry officers," in the fourth sentence and inserting in lieu thereof "and any administrative law judge",

(C) by striking out ", including special inquiry officers," in the sixth sentence,

(D) by striking out "and special inquiry officers" in the sixth sentence and inserting in lieu thereof "and administrative law judges", and

(E) by striking out "special inquiry officer" each place it appears in the seventh sentence and inserting in lieu thereof "administrative law judge".

(2) Subsection (c) of such section is amended—

(A) by striking out "the special inquiry officer during the examination before either of such officers" in the first sentence and inserting in lieu thereof "during the examination or an administrative law judge during an exclusion hearing",

(B) by striking out "no further inquiry by a special inquiry officer" in the first sentence and inserting in lieu thereof "no further examination or exclusion hearing",

(C) by striking out "inquiry or further inquiry" in the first sentence and inserting in lieu thereof "examination or hearing",

(D) by striking out "any inquiry or further inquiry by a special inquiry officer" in the second sentence and inserting in lieu thereof "any examination or hearing", and

(E) by striking out "an inquiry before a special inquiry officer" in the third sentence and inserting in lieu thereof "an exclusion hearing before an administrative law judge".

(d) Sections 106(a)(2), 236, and 242(b) (8 U.S.C. 1105a(a)(2), 1126, 1252(b)) are each amended by striking out "A" and "a" each place either appears before "special inquiry officer" and inserting in lieu thereof "An" and "an", respectively.

(e)(1) Sections 106(a)(2) and 236 (8 U.S.C. 1105a(a)(2), 1226) are each amended by striking out "special inquiry officer" and inserting in lieu thereof "administrative law judge" each place it appears.

(2) Subsection (a) of section 236 (8 U.S.C. 1226) is amended—

(A) by amending the first sentence to read as follows: "An administrative law judge shall conduct proceedings under this section.",

(B) by striking out "for further inquiry" in the second sentence and inserting in lieu thereof "for an exclusion hearing",

(C) by striking out "at the inquiry" in the third sentence and inserting in lieu thereof "at the hearing",

(D) by striking out the fourth sentence,

(E) by striking out "regulations as the Attorney General shall prescribe" in the fifth sentence and inserting in lieu thereof "rules as the United States Immigration Board shall establish", and

(F) by striking out "inquiry" in the seventh sentence and inserting in lieu thereof "hearing".

(3) Subsection (b) of such section is amended—

(A) by striking out "From a decision" and all that follows through "Attorney General" in the first sentence and inserting in lieu thereof the following: "From a decision of an administrative law judge excluding or admitting an alien, the alien or the immigration officer in charge at the port where the hearing is held, respectively, may file a timely appeal of the decision with the United States Immigration Board in accordance with rules established by the Board",

(B) by striking out "Attorney General" in the fourth sentence and inserting in lieu thereof "United States Immigration Board", and

(C) by striking out the third sentence.

(4) Subsection (c) of such section is amended by striking out "to the Attorney General".

(f) Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) by striking out "special inquiry officer" each place it appears in the first, second, third, and seventh sentences and inserting in lieu thereof "administrative law judge",

(2) by striking out "shall administer oaths" and all that follows through "Attorney General," in the first sentence,

(3) by striking out "Attorney General shall prescribe" in the second sentence and inserting in lieu thereof "United States Immigration Board shall establish",

(4) by striking out "In any case" and all that follows through "an additional immigration officer" in the fourth sentence and inserting in lieu thereof "An immigration officer" and by striking out "in such case such additional immigration officer" in that sentence,

(5) by striking out the fifth and sixth sentences,

(6) by striking out "such regulations" and all that follows through "shall prescribe" in the seventh sentence and inserting in lieu thereof "rules as are established by the United States Immigration Board",

(7) by striking out "Such regulations" in the eighth sentence and inserting in lieu thereof "Such rules", and

(8) by striking out "Attorney General shall be final" in the tenth sentence and inserting in lieu thereof "administrative law judge shall be final unless reversed on appeal".

(g) The last sentence of section 273(d) (8 U.S.C. 1323(d)) is amended by striking out "special inquiry officers" and inserting in lieu thereof "administrative law judges".

(h) Section 292 (8 U.S.C. 1362) is amended—

(1) by striking out "In" and all that follows through "proceedings," and inserting in lieu thereof "In any proceeding or hearing before an administrative law judge and in any appeal before the United States Immigration Board from any such proceeding", and

(2) by inserting "and at no unreasonable delay" after "Government".

(i) Section 360(c) (8 U.S.C. 1503(c)) is amended—

(1) by inserting "(and appeals thereof)" in the first sentence after "proceedings", and

(2) by striking out the second sentence.

(j) Any reference in section 203(h) of the Immigration and Nationality Act, as in effect before March 17, 1980, to a special inquiry officer shall be deemed to be a reference also to an administrative law judge under section 101(a)(43) of such Act.

PART D—ADJUSTMENT OF STATUS

LIMITATIONS ON ADJUSTMENT OF NONIMMIGRANTS TO IMMIGRANT STATUS BY OUT-OF-STATUS ALIENS

SEC. 131. (a) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by inserting after "hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status" the following: "or who is not in legal immigration status on the date of filing the application for adjustment of status".

(b) The amendment made by subsection (a) shall apply to applications for adjustment of status pending on the date of the enactment of this Act.

(c) For amendment prohibiting certain nonimmigrant students and visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

TITLE II—REFORM OF LEGAL IMMIGRATION

PART A—IMMIGRANTS

PROVIDING ADDITIONAL IMMIGRANT VISA NUMBERS FOR NATIVES OF CONTIGUOUS COUNTRIES

SEC. 201. (a) Section 201 (8 U.S.C. 1151) is amended—

(1) by inserting "certain aliens provided immigrant visa numbers under subsection (c)," in subsection (a) after "subsection (b) of this section,", and

(2) by adding at the end the following new subsection:

"(c) Whenever the Secretary of State estimates that for a fiscal year at least 90 per centum of the maximum number of visas will be made available under section 202(a) to natives of either of the foreign states contiguous to the United States, then, without regard to the numerical limitations specified in subsection (a), an additional number of aliens born in that foreign state may also be issued immigrant visas or may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, which number shall not in any of the first three-quarters of the fiscal year exceed a total of five thousand five hundred and shall not in the fiscal year exceed twenty thousand.".

(b) Section 202 (8 U.S.C. 1152) is amended—

(1) by inserting "and (c)" in subsection (a) after "section 201(b)",

(2) by striking out "under section 202" in the matter in subsection (e) before paragraph (1) and inserting in lieu thereof "under subsection (a)", and

(3) by adding at the end of subsection (e) the following: "This subsection shall not apply to visas made available under section 201(c) and allotted under section 203(f).".

(c) Section 203 (8 U.S.C. 1153) is amended by adding at the end the following new subsection:

"(f)(1) Aliens who are subject to the numerical limitations specified in section 201(c) shall be allotted visas in the same manner, subject to the same conditions, and in the same order as aliens who are subject to the numerical limitations specified in section 201(a) are allotted visas under subsection (a), except that the percentage limitations specified in paragraphs (1) through (6) thereof shall not apply.

"(2) Requirements respecting acquisition of preference status by reason of a relationship or occupational qualification described in a paragraph of subsection (a) shall apply, in the same manner, for the acquisition of preference status under paragraph (1) of this subsection.".

(d) The amendments made by this section shall apply to fiscal years beginning with fiscal year 1984.

CHANGE IN COLONIAL QUOTA

SEC. 202. (a)(1) Section 202(c) (8 U.S.C. 1152(c)) is amended by striking out "six hundred" and inserting in lieu thereof "three thousand".

(2) Section 202(e) (8 U.S.C. 1152(e)) is amended by striking out "600" and inserting in lieu thereof "3,000".

(b) The amendments made by subsection (a) shall apply to fiscal years beginning with fiscal year 1984.

REPORT ON ADMISSIONS AND NUMERICAL LIMITATIONS

SEC. 203. (a) Chapter 1 of title I is amended by adding at the end the following new section:

"PRESIDENTIAL REPORT ON IMMIGRATION ADMISSIONS AND IMPACTS

"SEC. 210. (a) The President shall transmit to the Congress, not later than January 1, 1987, and not later than January 1 of every third year thereafter, a comprehensive report on the impact on the economy, labor market, housing market, educational system, social services, foreign policy, environmental quality, resources, and population growth rate of the United States of admissions and other entries of immigrants, refugees, asylees, and parolees into the United States during the preceding three-year period and on the projected impact (based on reasonable estimates substantiated by the best available evidence) on such factors of admissions and other entries during the succeeding five-year period.

"(b)(1) The President shall include in such report the number and classification of aliens admitted (whether as immediate relatives, special immigrants, refugees, or under the preferences classifications, or as nonimmigrants), paroled, or granted asylum during the relevant period as well as a reasonable estimate of the number of aliens who entered the United States during the period without visas or who became deportable during the period under section 241.

"(2) The President also shall include in such report any appropriate recommendations on changes in numerical limitations or other policies under this title bearing on the admission and entry of such aliens to the United States.

"(c) Not later than ninety days after the date of receipt of such a report, the Committees on the Judiciary of the House of Representatives and of the Senate shall hold public hearings to review the findings and recommendations contained in such report.".

(b) The table of contents is amended by inserting after the item relating to section 209 the following new item:

"Sec. 210. Presidential report on immigration admissions and impacts.".

G–4 SPECIAL IMMIGRANTS

SEC. 204. (a) Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or", and by adding at the end the following new subparagraph:

"(I) an immigrant who entered the United States with the status of a nonimmigrant under paragraph (15)(G)(iv) and who—

"(i) is the unmarried son or daughter of an officer or employee of an international organization described in paragraph (15)(G)(iv), and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph

(15)(N), has resided and been physically present in the United States within seven years of the date of application for a visa under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and eighteen years, and (II) applies for admission under this subparagraph no later than his twenty-fifth birthday or six months after the date this subparagraph is enacted, whichever is later; or

"(ii) is the surviving spouse of a deceased officer or employee of such an international organization, and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided in the United States within seven years of the date of application for a visa under this subparagraph and for a period or periods aggregating at least fifteen years prior to the death of such officer or employee, and (II) applies for admission under this subparagraph no later than six months after the date of such death or six months after the date this subparagraph is enacted, whichever is later.".

(b) Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by striking out "or" at the end of subparagraph (L), by striking out the period at the end of subparagraph (M)

and inserting in lieu thereof "; or", and by adding at the end the following new subparagraph:

"(N)(i) the parent of an alien accorded the status of a special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or

"(ii) a child of such parent or of an alien accorded the status of a special immigrant under paragraph (27)(I)(ii).".

MISCELLANEOUS PROVISIONS

SEC. 205. (a) Section 101(b)(1)(D) (8 U.S.C. 1101(b)(1)(D)) is amended by inserting "or natural father" after "natural mother".

(b) Section 19(2) of Public Law 97-116 is amended by inserting "(A)" after "because" and by adding before the semicolon at the end the following: ", or (B) the alien was entering the United States for the purpose of retirement, would not seek gainful employment in the United States, had purchased property in the United States before such date, and had demonstrated the ability for self-support while in retirement".

(c) In the case of an alien—

(1) who was in the United States on October 1, 1982,

(2) who, as of such date—

(A) had a petition approved for classification under section 203(a) (3) or (6) of the Immigration and Nationality Act, and

(B) had been issued a labor certification under section 212(a)(14) of such Act with respect to employment for an employer,

(3) who intends to remain in the United States for the purpose of performing such employment, and

(4) with respect to whom the Attorney General estimates that an immigrant visa will become available before October 1, 1984,

the Attorney General may provide that, notwithstanding any provision of section 214 of the Immigration and Nationality Act, the alien may be classified as a nonimmigrant under section 101(a)(15)(H)(ii) of such Act with respect to such employment until October 1, 1984, or, if earlier, one month after the date the alien's immigrant visa becomes available. For purposes of applying section 245 of such Act to an alien classified as a nonimmigrant under this subsection, the alien shall be considered to have been inspected and admitted into the United States and subsection (c)(2) of that section shall not apply.

(d) Section 204(g)(3)(A) (8 U.S.C. 1154(g)(3)(A)) is amended by striking out "(C)(i) of paragraph 2" and inserting in lieu thereof "(C)(ii) of paragraph (2)".

(e) Section 212(a)(14)(A) (8 U.S.C. 1182(a)(14)(A)) is amended—

(1) by inserting "(i)" before "who are members",

(2) by striking out "or who have" and inserting in lieu thereof ", (ii) who have", and

(3) by inserting after "sciences or the arts" the following: ", or (iii) who have doctoral degrees and are seeking to enter the United States to be employed as researchers at colleges, universities, or other nonprofit educational or research institutions".

PART B—NONIMMIGRANTS

H–2 WORKERS AND TRANSITIONAL NONIMMIGRANT AGRICULTURAL WORKER PROGRAM

SEC. 211. (a)(1) Paragraph (15)(H) of section 101(a) (8 U.S.C. 1101(a)) is amended by striking out "to perform temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country" in clause (ii) and inserting in lieu thereof "(a) to perform agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938, of a temporary or seasonal nature, or (b) to perform other temporary services or labor".

(2) Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section 204(b) of this Act, is further amended by striking out "or" at the end of subparagraph (M), by striking out the period at the end of subparagraph (N) and inserting in lieu thereof "; or", and by adding at the end the following new subparagraph:

"(O) an alien having a residence in a foreign country which he has no intention of abandoning who is coming to the United States to perform temporary services or labor in seasonal agricultural employment (as defined in section 3(3) of the Migrant and Seasonal Agricultural Worker Protection Act) under the transitional agricultural labor program provided for under section 214(e).".

(b) Section 214 (8 U.S.C. 1184) is amended—

(1) by adding at the end of subsection (a) the following new sentences:

"An alien may not be admitted to the United States as a nonimmigrant—

"(1) under section 101(a)(15)(H)(ii)(a) for an aggregate period longer than the period (or periods) determined by regulations of the Secretary of Labor, or

"(2) under section 101(a)(15)(H)(ii) if the alien was admitted to the United States as such a nonimmigrant within the previous five-year period and the alien

during that period violated a term or condition of such previous admission.

The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.",

(2) by inserting "(1)" after "(c)" in subsection (c),

(3) by adding at the end of subsection (c)(1), as so redesignated, the following:

"For purposes of this paragraph the term 'appropriate agencies of Government' means the Department of Labor and includes, with respect to nonimmigrants described in section 101(a)(15)(H)(ii)(a), the Department of Agriculture.

"(2)(A)(i) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii)(a) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(I) there are not sufficient workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition, and

"(II) the employment of the alien in such labor or services will not adversely affect the wages and work-

ing conditions of workers in the United States similarly employed.

"(ii) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii)(b) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(I) there are not sufficient qualified workers available in the United States to perform the labor or services involved in the petition, and

"(II) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

"(iii) The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(B) The Secretary of Labor may not issue a certification under subparagraph (A)—

"(i) if there is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification,

"(ii) with respect to an employer if the employer during the previous two-year period employed nonimmigrant aliens admitted to the United States under

section 101(a)(15)(H)(ii) and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers, or

"(iii) for an employer unless the Secretary has been provided satisfactory assurances that if the employment for which the certification is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

No employer may be denied certification under clause (ii) for more than three years for any violation described in such clause.

"(3)(A) In the case of an application for a labor certification for a nonimmigrant described in section 101(a)(15)(H)(ii)(a)—

"(i) the Secretary of Labor may not require that the application be filed more than 50 days before the first date the employer requires the labor or services of the alien;

"(ii) the employer shall be notified in writing within seven days of the date of filing if the application does not meet the standards (other than that described in paragraph (2)(A)(i)(I)) for approval and if it does not, such notice shall include the reasons therefor and permit the employer an opportunity to resubmit promptly a modified application for approval;

"(iii) the Secretary of Labor shall make, not later than twenty days before the date such labor or services are first required to be performed, the certification described in paragraph (2)(A)(i) if the employer has complied with the criteria for certification, including criteria for the recruitment of eligible individuals as prescribed by the Secretary, and if the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have indicated their availability to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary, except that the terms of such a labor certification remain effective only if the employer continues to accept for employment, until the date the aliens depart for work with the employer, qualified eligible individuals who apply or are referred to the employer; and

"(iv) in the employer's complying with terms and conditions of employment respecting the furnishing of housing, the employer shall be permitted, at the employer's option and in lieu of arranging for suitable housing accomodations, to substitute payment of a reasonable housing allowance, but only if housing is otherwise available in the proximate area of employment.

"(B) A petition to import an alien as an nonimmigrant described in section 101(a)(15)(H)(ii)(a), and an application for a labor certification with respect to such an alien, may be filed by an association representing agricultural producers which use agricultural labor or services. The filing of such a petition or application on a member's behalf does not relieve the member of any liability for representations made in such petition or application.

"(C)(i) The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under paragraph (2)(A)(i) or, at the applicant's request, for a de novo administrative hearing respecting the denial.

"(ii) The Secretary of Labor shall expeditiously, but in no case later than seventy-two hours after the time a new determination is requested, make a new determination on the request for certification in the case of importing a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if able, willing, and qualified eligible individuals are not actually avail-

able at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not able, willing or qualified, the burden of proof is on the employer to establish that the individuals referred are not able, willing, or qualified because of employment-related reasons as shown by their job performance.

"(D) For purposes of this paragraph, the term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(a)(4)) with respect to that employment.

"(4) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall annually report to the Congress on the certifications provided under this subsection and on the work permits issued under subsection (e), the impact of aliens admitted pursuant to such certifications or permits on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.

"(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1984, $10,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by

nonimmigrants described in sections 101(a)(15)(H)(ii) and 101(a)(15)(O), and (B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States. The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this subsection or subsection (e).

"(6) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1984, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this subsection and under section 212(a)(14).", and

(4) by adding at the end thereof the following new subsection:

"(e)(1) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall by regulation establish a three-year transitional agricultural labor program (hereinafter in this subsection referred to as 'the transitional program') to assist agricultural employers in shifting from the employment of unauthorized aliens to the employment of eligible individuals (described in subsection (c)(3)(D)).

"(2)(A) No person is eligible to employ a nonimmigrant described in section 101(a)(15)(O) unless the person (or a person or association representing the person) applies for registration with the Attorney General during the first year of the transitional program (as designated by the Attorney General). In such application, the person shall provide such information relating to the person's requirements for seasonal agricultural labor in months or other periods in previous and future years as the Attorney General may specify.

"(B) In approving applications for registration under this paragraph and taking into consideration the needs specified in the applications, the historical employment needs of agricultural employers for seasonal agricultural labor, and the availability of domestic agricultural labor, the Attorney General shall specify, with respect to each registration, the maximum number of nonimmigrants described in section 101(a)(15)(O) the person can employ during the various months in the first year of the transitional program, which number shall approximate the employer's maximum reasonable requirement for nondomestic seasonal agricultural workers. The approval of an employer's application for registration under this paragraph and the issuance of work permits thereunder is conditioned upon the employer's compliance with the terms and conditions of this subsection and regulations issued thereunder.

"(C) If the Attorney General approves the employment of a number of such nonimmigrants for a month or other period in the first year of the transitional program, the Attorney General shall issue to the employer a nonimmigrant labor form (hereinafter in this subsection referred to as a 'work permit') for each such nonimmigrant for the month or other period specified. The Attorney General may require by regulation, as a condition of issuing work permits, the payment of a fee to recover the reasonable cost of processing registration applications and issuance of work permits under this subsection.

"(D) For months or other periods in the second or third years of the transitional program, the Attorney General shall provide for the issuance (to each registered employer who has complied with the terms of the program and of the program described in subsection (c) in previous years of the program) of a number of work permits equal to 67 or 33 per centum, respectively, of the number of such permits issued with respect to that month or period for that employer in the first year of the transitional program.

"(E) No work permit shall be issued under this subsection with respect to the employment of any alien for any period after the third year of the transitional program.

"(3) An agricultural employer desiring to employ in seasonal agricultural labor for a month or other period an

alien who is not otherwise an eligible individual (as described in subsection (c)(3)(D), but for this subsection) must—

"(A)(i) complete and endorse a copy of a work permit for that month or other period directly to the alien, who shall retain a copy of the work permit for inspection, (ii) transmit a copy of such endorsed permit to the Attorney General, and (iii) retain a copy for the employer's records; or

"(B) provide for transmittal of the work permit to an appropriate consular officer to provide for the issuance of a visa to a qualified alien as a nonimmigrant described in section 101(a)(15)(O) to perform seasonal agricultural employment for that employer for the period specified.

Upon the receipt of an endorsed copy of a work permit of an alien under subparagraph (A), the Attorney General shall provide for the recordation of the alien as a nonimmigrant described in section 101(a)(15)(O), except that such recordation shall not prevent the deportation of the alien after the expiration of the work permit or on any ground (other than on the ground described in section 241(a)(2) or on the basis, under section 241(a)(1), of being excludable at the time of entry under paragraph (19), (20), or (26) of section 212(a)).

"(4)(A) An agricultural employer employing an alien with a work permit must provide for the same wages and

working conditions as those which would be required with respect to the employment of nonimmigrants described in section 101(a)(15)(H)(ii)(a), and, in the case of such an alien described in paragraph (3)(B), must meet such other transportation and similar conditions as are required with respect to the importation of nonimmigrants described in section 101(a)(15)(H)(ii)(a).

"(B) In accordance with regulations of the Attorney General, a work permit issued under this section shall be considered an alien registration card for purposes of section 274A(b)(1)(B)(ii)(I) and an alien employed by an employer and in possession of a properly endorsed work permit for a period of time shall be considered (for purposes of section 274A(a)(4)) to be authorized by the Attorney General to be so employed during that period of time. For purposes of section 3121(a)(1) of the Internal Revenue Code of 1954 and section 210(a) of the Social Security Act, a nonimmigrant described in section 101(a)(15)(O) performing seasonal agricultural services for a registered employer with a properly endorsed work permit shall be considered to be lawfully admitted to the United States on a temporary basis to perform agricultural labor.

"(5)(A) The Attorney General may provide for such suspensions and conditions on participation in the transitional program as are consistent with suspensions and conditions

of participation of agricultural employers under the program described in subsection (c).

"(B) The Attorney General shall suspend the registration of an agricultural employer under the transitional program, and may prohibit the employer from participating in the program under subsection (c), for a period of up to three years if the Attorney General determines, after opportunity for a hearing, that the employer, during the previous two-year period (after the effective date of the transitional program)—

"(i) has knowingly discriminated in terms or conditions of employment against eligible individuals without work permits,

"(ii) has knowingly hired aliens not permitted under law to be so employed,

"(iii) has employed an alien classified or recorded as a nonimmigrant described in section 101(a)(15)(O) for services other than seasonal agricultural employment or for a period for which a work permit has not been issued and is not in effect,

"(iv) has become ineligible for a certification under subsection (c)(2)(B)(ii), or

"(v) otherwise has at any time during the period substantially violated a material term or condition of the registration with respect to the employment of domestic or nonimmigrant workers.

"(6) Aliens employed pursuant to work permits issued under this subsection are fully protected by all applicable Federal and State laws and regulations governing the employment of migrant and seasonal agricultural workers.".

(c) The amendments made by this section apply to petitions and applications filed under section 214(c) of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").

(d) The Attorney General, in consultation with the Secretary of Labor and, in connection with agricultural labor or services, the Secretary of Agriculture, shall approve all regulations to be issued implementing the amendments made by this section. Notwithstanding any other provision of law, final regulations implementing the amendments made by this section shall first be issued, on an interim or other basis, not later than the effective date.

(e) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall report to the Congress not later than eighteen months after the effective date on recommendations for improvements in the temporary alien worker program amended by this section, including recommendations—

(1) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(2) removing any current economic disincentives to hiring United States citizens or permanent resident aliens where temporary foreign workers have been requested, and

(3) improving the cooperation among Government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers.

(f) It is the sense of Congress that the President should establish an advisory commission which shall consult with the Governments of Mexico and of other appropriate countries and advise the Attorney General regarding the operation of the alien temporary worker program established under section 214(c) of the Immigration and Nationality Act and of the transitional seasonal agricultural worker program under section 214(e) of such Act.

(g) For amendments prohibiting nonimmigrants under the seasonal agricultural worker program from adjusting their status to immigrant or other nonimmigrant status, see sections 212(b) and 213(d) of this Act.

STUDENTS

SEC. 212. (a) Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by striking out "(e) No person" and inserting in lieu thereof "(e)(1) No person (A)",

(2) by inserting after "training," the following: "or (B) except as provided in paragraph (2), admitted under subparagraph (F) or (M) of section 101(a)(15) or acquiring such status after admission,",

(3) by striking out "clause (iii)" in the second proviso and inserting in lieu thereof "clause (A)(iii) or clause (B) of the first sentence",

(4) by striking out ": Provided, That upon" and inserting in lieu thereof ". Upon",

(5) by striking out ": And provided further, That except" and inserting in lieu thereof ". Except", and

(6) by adding at the end the following:

"The Attorney General may waive such two-year foreign residence requirement in the case of an alien described in clause (B) of the first sentence who is an immediate relative (as specified in section 201(b)).

"(2) The Attorney General, in the case of an alien described in clause (B) of the first sentence of paragraph (1) who has the status of a nonimmigrant under section 101(a)(15)(F), may waive the two-year foreign residence re-

quirement of paragraph (1) if the Attorney General determines that the waiver is in the public interest and that—

"(A) the alien—

"(i)(I) has obtained an advanced degree from a college or university in the United States and has been offered a position on the faculty (including as a researcher) of a college or university in the United States in the field in which he obtained the degree,

"(II) has obtained a degree in a natural science, mathematics, computer science, or an engineering field from a college or university in the United States and has been offered a research or technical position by a employer in the field in which he obtained the degree, or

"(III) has obtained an advanced degree in business or economics from a college or university in the United States, has exceptional ability in business or economics, and has been offered employment which requires such exceptional ability;

"(ii) is applying for a visa as an immigrant described in paragraph (3) or (6) of section 203(a),

"(iii) has received a certification under section 212(a)(14) with respect to position referred to in clause (i), and

"(iv) has applied for a waiver under this paragraph before September 30, 1989; or

"(B) the alien—

"(i) has obtained a degree in a natural science, mathematics, computer science, or in a field of engineering or business,

"(ii) is applying for a visa as a nonimmigrant described in section 101(a)(15)(H)(iii),

"(iii) will receive no more than three years of training by a firm, corporation, or other legal entity in the United States, which training will enable the alien to return to the country of his nationality or last residence and be employed there as a manager by the same firm, corporation, or other legal entity, or a branch, subsidiary, or affiliate thereof, and

"(iv) furnishes the Attorney General each year with an affidavit (in such form as the Attorney General shall prescribe) that attests that the alien (I) is in good standing in the training program in which the alien is participating, and (II) will return to the country of his nationality or

last residence upon completion of the training program.".

(b) Section 245(c) (8 U.S.C. 1255(c)) is amended by striking out "or" before "(3)" and by inserting before the period at the end the following: ", or (4) an alien (other than an immediate relative specified in section 201(b) or an alien who has received a waiver under section 212(e)(2)(A)) who entered the United States classified as a nonimmigrant under subparagraph (F), (M), or (O) of section 101(a)(15) or who was admitted as a nonimmigrant visitor without a visa under subsection (l) or (m) of section 212".

(c) Section 244(b) (8 U.S.C. 1254(b)) is amended—

(1) by striking out "(b)" and inserting in lieu thereof "(b)(1)", and

(2) by adding at the end the following:

"(2) In determining the period of continuous physical presence in the United States under subsection (a), there shall not be included any period in which the alien was in the United States as—

"(A) a nonimmigrant described in subparagraph (F) or (M) of section 101(a)(15), or

"(B) a nonimmigrant described in section 101(a)(15)(H)(iii), pursuant to a waiver under section 212(e)(2)(B).".

(d)(1) The amendments made by subsection (a) apply to aliens admitted to the United States as a nonimmigrant described in subparagraph (F) or (M) of section 101(a)(15) of the Immigration and Nationality Act after the date of the enactment of this Act or who otherwise acquire such status after such date.

(2) The amendments made by subsection (b) apply to aliens without regard to the date the aliens enter the United States.

(3) The amendments made by subsection (c) apply to periods occurring on or after the date of the enactment of this Act and shall not have the effect of excluding (in the determination of a period of continuous physical presence in the United States) any period before the date of the enactment of this Act.

VISA WAIVER FOR CERTAIN VISITORS

SEC. 213. (a) Section 212 (8 U.S.C. 1182) is amended by adding at the end thereof the following new subsections:

"(l)(1) The Attorney General and the Secretary of State are authorized to establish a pilot program (hereinafter in this subsection referred to as the 'program') under which the requirement of paragraph (26)(B) of subsection (a) may be waived by the Attorney General and the Secretary of State, acting jointly and in accordance with this subsection, in the case of an alien who—

"(A) is applying for admission during the pilot program period (as defined in paragraph (5)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding ninety days;

"(B) is a national of a country which—

"(i) extends or agrees to extend reciprocal privileges to citizens and nationals of the United States, and

"(ii) is designated as a pilot country under paragraph (3);

"(C) before such admission completes such immigration form as the Attorney General shall establish under paragraph (2)(C) and executes a waiver of review and appeal described in paragraph (2)(D);

"(D) has a round trip, nonrefundable, nontransferable, open-dated transportation ticket which—

"(i) is issued by a carrier which has entered into an agreement described in paragraph (4), and

"(ii) guarantees transport of the alien out of the United States at the end of the alien's visit; and

"(E) has been determined not to represent a threat to the welfare, safety, or security of the United States;

except that no such alien may be admitted without a visa pursuant to this subsection if the alien failed to comply with the conditions of any previous admission as a nonimmigrant.

"(2)(A) The program may not be put into operation until the end of the thirty-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in subparagraph (B) is operational and that the form described in subparagraph (C) has been produced.

"(B) The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival and departure into the United States of nonimmigrant visitors receiving a visa waiver under the program.

"(C) The Attorney General shall develop a form for use under the program. Such form shall be consistent and compatible with the control system developed under subparagraph (B). Such form shall provide for, among other items—

"(i) a summary description of the conditions for excluding nonimmigrant visitors from the United States under subsection (a) and this subsection,

"(ii) a description of the conditions of entry with a waiver under this subsection, including the limitation of such entry to ninety days and the consequences of failure to abide by such conditions, and

"(iii) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

"(D) An alien may not be provided a waiver under this subsection unless the alien has waived any right (i) to review or appeal under the Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States or (ii) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(3)(A) The Attorney General and the Secretary of State acting jointly may designate up to eight countries as pilot countries for purposes of this subsection.

"(B) For the period beginning after the thirty-day period described in paragraph (2)(A) and ending on the last day of the first fiscal year which begins after such thirty-day period, a country may not be designated as a pilot country unless—

"(i) the average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years, and

"(ii) the average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(C) For each fiscal year (within the pilot program period) after the period specified in subparagraph (B)—

"(i) in the case of a country which was a pilot country in the previous fiscal year, a country may not be designated as a pilot country unless the sum of—

"(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(II) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2 per centum of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year, or

"(ii) in the case of another country, the country may not be designated as a pilot country unless—

"(I) the average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years, and

"(II) the average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(4) The agreement referred to in paragraph (1)(D)(i) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under this subsection—

"(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully

after the ninety-day period described in paragraph (1)(A)(i), and

"(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under this subsection. The Attorney General may terminate such an agreement with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

"(5) For purposes of this subsection, the term 'pilot program period' means the period beginning at the end of the thirty-day period referred to in paragraph (2)(A) and ending on the last day of the third fiscal year which begins after such thirty-day period.

"(6) The Attorney General and the Secretary of State shall jointly monitor the program and shall report to the Congress not later than two years after the beginning of the pilot program, and shall include in such report recommendations respecting extension of the pilot program period and of the number of countries that may be designated under paragraph (3)(A).

"(m) The requirement of paragraph (26)(B) of subsection (a) may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for

entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State, and the Secretary of the Interior jointly determine that—

"(1) the territory of Guam has developed an adequate arrival and departure control system, and

"(2) such a waiver does not present a threat to the welfare, safety, or security of the United States.".

(b) Section 214(a) (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to the United States without a visa pursuant to subsection (l) or (m) of section 212 may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding ninety days or fifteen days, respectively, from the date of admission.".

(c) For amendment prohibiting nonimmigrant visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

(d) Section 248 (8 U.S.C. 1258) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(4) an alien classified as a nonimmigrant under section 101(a)(15)(O) or admitted as a nonimmigrant

visitor without a visa under subsection (l) or (m) of section 212.".

TITLE III—LEGALIZATION

LEGALIZATION

SEC. 301. (a) Chapter 5 of title II is amended by inserting after section 245 (8 U.S.C. 1255) the following new section:

"ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

"SEC. 245A. (a) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for permanent residence if—

"(1) the alien has entered the United States, is physically present in the United States, and applies for such adjustment during the one-year period beginning on a date (not later than ninety days after the date of the enactment of this section) designated by the Attorney General,

"(2)(A) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1982, and has resided continuously in the United States in an unlawful status since January 1, 1982, or

"(B) the alien entered the United States as a nonimmigrant before January 1, 1982, the alien's period of authorized stay as a nonimmigrant expired before January 1, 1982, through the passage of time or the alien's unlawful status was known to the Government as of January 1, 1982, and the alien has resided continuously in the United States in an unlawful status since January 1, 1982; and

"(C) in the case of an alien who at any time was a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof; and

"(3) the alien—

"(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (b)(3),

"(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States,

"(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion, and

"(D) registers under the Military Selective Service Act, if the alien is required to be so registered under that Act.

For purposes of this subsection, an alien in the status of a Cuban and Haitian entrant described in paragraph (1) or (2)(A) of section 501(e) of Public Law 96–422 shall be considered to have entered the United States and to be in an unlawful status in the United States. Notwithstanding paragraph (1), an alien who (at any time during the one-year period described in paragraph (1)) is the subject of an order to show cause issued under section 242, must make application under such paragraph not later than the end of the thirty-day period beginning either on the first day of such one-year period or on the date of the issuance of such order, whichever day is later.

"(b)(1)(A) The Attorney General shall provide that applications for adjustment of status under subsection (a) may be made to and received, on behalf of the Attorney General, by qualified voluntary agencies and other qualified State, local, and community organizations, which have been designated for such purpose by the Attorney General.

"(B) Files and records of designated agencies and organizations under this paragraph are confidential and the Attorney General and the Service shall not have access to such

files or records relating to an alien without the consent of the alien.

"(C) In the case of an alien who submits an application under subsection (a) to the Attorney General (or to an organization designated under subparagraph (A) and who approves the forwarding of the application to the Attorney General), the alien is subject to a criminal penalty under section 1001 of title 18, United States Code, for knowingly and willfully making false, fictitious, or fraudulent statements in the process of submitting the application. An organization designated under subparagraph (A) which receives such a statement and which, without knowledge that it is false, fictitious, or fraudulent and with the consent of the alien involved, forwards the statement to the Attorney General is not subject to such a penalty.

"(2) The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

"(3)(A) The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not be applicable in the determination of an alien's admissibility under subsection (a)(3)(A), and the Attorney General, in making such determination, may waive any other provision of such section other than paragraph (9), (10), (23) (except for so much of such paragraph as relates to a single offense of simple posses-

sion of 30 grams or less of marihuana), (27), (28), (29), or (33) with respect to the alien involved for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(B) In determining whether or not an alien is admissible to the United States for purposes of this section, the alien shall be required, at the alien's expense, to meet the same requirements with respect to a medical examination as are required of aliens seeking entry into the United States as immigrants.

"(4) During the six-month period beginning on the date of the enactment of this section, the Attorney General, in cooperation with agencies and organizations designated under paragraph (1), shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

"(5)(A) Notwithstanding any other provision of law, the Attorney General shall first issue, on an interim or other basis and before the beginning of the one-year period described in subsection (a)(1), such regulations as are necessary to implement this section on a timely basis.

"(B) The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and the Senate and with agencies and organizations designated pursuant to paragraph (1)(A), shall prescribe regula-

tions establishing a definition of the term 'resided continuously', as used in this section, and for establishing the requirements necessary to prove eligibility for immigration benefits under this section. Such regulations may be prescribed to take effect on an interim basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

"(6) The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the one-year application period described in subsection (a)(1), and who can establish a prima facie case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period) may not be deported until he has had the opportunity, during the first thirty days of the one-year period, to file an application for such adjustment.

"(7) The provisions of this section shall not apply to an alien described in section 2(b) of Public Law 97–271.

"(c)(1) During the five-year period beginning on the date an alien is granted lawful permanent resident status under subsection (a) and during the five-year period beginning on the date an alien is provided a record of lawful admission for permanent residence under section 249 based on an entry into the United States on or after June 30, 1948, and notwithstanding any other provision of law—

"(A) except as provided in paragraph (2), the alien is not eligible for—

"(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government,

"(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

"(iii) assistance under the Food Stamp Act of 1977, and

"(B) a State or political subdivision therein may, to the extent consistent with subparagraph (A), provide that the alien is not eligible for the programs of financial or medical assistance furnished under the law of that State or political subdivision.

"(2) Paragraph (1) shall not apply—

"(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96–422, as in effect on April 1, 1983);

"(B) in the case of assistance provided to aliens who are determined (in accordance with regulations

prescribed by the Attorney General in consultation with the Secretary of Health and Human Services) to require such assistance because of age (in the case of aliens sixty-five years of age or older), blindness, or disability, and

"(C) in the case of medical assistance provided to aliens who are determined (in accordance with regulations prescribed by the Attorney General in consultation with the Secretary of Health and Human Services) to require such assistance in the interest of public health or because of serious illness or injury.

The requirements of State plans under title XIX of the Social Security Act are superceded to the extent required to restrict the medical assistance in the manner described in subparagraph (C) and paragraph (1)(A)(ii).

"(3) For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

"(d)(1) There shall be no administrative or judicial review (by class action or otherwise) of a determination respecting an application for adjustment of status under subsection (a) except in accordance with this subsection.

"(2) The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination. Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application.

"(3)(A) There shall be no judicial review of such a determination, unless the applicant has exhausted the administrative review described in paragraph (2).

"(B) There shall be judicial review of such a denial only in the judicial review of an order of deportation under section 106. Such review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish gross abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.".

(b) The table of contents for chapter 5 of title II is amended by inserting after the item relating to section 245 the following new item:

"Sec. 245A. Adjustment of status of certain entrants before January 1, 1982, to that of person admitted for permanent residence.".

(c) The President shall transmit to Congress, not later than eighteen months after the date of the enactment of this Act, a report on the impact of the enactment of the legaliza-

tion program described in section 245A of the Immigration and Nationality Act, including such impact on State and local governments in the different regions of the United States.

(d)(1) Public Law 89–732 (approved November 2, 1966) is repealed.

(2) The repeal made by paragraph (1) shall not apply to a native or citizen of Cuba who has been inspected and admitted or paroled into the United States before April 21, 1980.

UPDATING REGISTRY DATE TO JANUARY 1, 1973

SEC. 302. (a) Section 249 (8 U.S.C. 1259) is amended—

(1) by striking out "JUNE 30, 1948" in the heading and inserting in lieu thereof "JANUARY 1, 1973", and

(2) by striking out "June 30, 1948" in paragraph (a) and inserting in lieu thereof "January 1, 1973".

(b) The item in the table of contents relating to section 249 is amended by striking out "June 30, 1948", and inserting in lieu thereof "January 1, 1973".

STATE LEGALIZATION ASSISTANCE

SEC. 303. (a) There are authorized to be appropriated to carry out subsections (b) and (c) of this section such sums

as may be necessary for fiscal year 1984 and for each of the three succeeding fiscal years.

(b)(1) Subject to the amounts provided in advance in appropriation Acts, the Secretary of Health and Human Services shall provide reimbursement to each State (as defined in paragraph (2)(A)) for 100 per centum of the costs of programs of public assistance (as defined in paragraph (2)(B)) provided to any eligible legalized alien (as defined in paragraph (2)(C)).

(2) For purposes of this subsection:

(A) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(B) The term "programs of public assistance" means programs existing in a State or local jurisdiction which—

(i) provide for cash, medical, or other assistance designed to meet the basic subsistence or health needs of individuals or required in the interest of public health,

(ii) are generally available to needy individuals residing in the State or locality, and

(iii) receive funding from units of State or local government.

(C) The term "eligible legalized alien" means—

(i) an alien who has been granted permanent resident status under section 245A(a) of the Immigration and Nationality Act, but only until the end of the five-year period beginning on the date the alien was granted such status; and

(ii) an alien who has been provided a record of lawful admission for permanent residence under section 249 of such Act based on an entry into the United States on or after June 30, 1948, but only until the end of the five-year period beginning on the date the alien was provided such record.

(c)(1) Subject to the amounts provided in advance in appropriation Acts and in accordance with this section, the Secretary of Education shall make payments to State educational agencies for the purpose of assisting local educational agencies of that State in providing educational services for eligible legalized aliens (as defined in subsection (b)(2)(C)).

(2) The amount of the payment to a State educational agency under this subsection for a fiscal year shall be based on the number of eligible legalized aliens (as defined in subsection (b)(2)(C)) who are enrolled in elementary and secondary public schools under the jurisdiction of each local educational agency within that State.

(3) For purposes of this subsection, the terms "elementary school", "local educational agency", "secondary school", "State", and "State educational agency" have the meanings given such terms under section 198(a) of the Elementary and Secondary Education Act of 1965.

TITLE IV—EXTENDED VOLUNTARY DEPARTURE FOR SALVADORANS

EXTENDED VOLUNTARY DEPARTURE FOR SALVADORANS

SEC. 401. It is the sense of Congress that in the case of nationals of El Salvador who otherwise qualify for voluntary departure (in lieu of deportation) under the Immigration and Nationality Act, the Attorney General shall extend the date such aliens are required to depart voluntarily until such date as the Secretary of State determines that the situation in El Salvador has changed sufficiently to permit their safely returning to El Salvador.

○

Mr. SCHEUER. We look forward very much to hearing the witnesses this morning. I will call up the first panel. Dr. Martin Finn, medical director of public health services for the Los Angeles County Department of Public Health; Mr. Ferdinand Gaenzel, associate executive director for support services of the Bexar County hospital district in San Antonio, Tex., here on behalf of the National Association of Public Hospitals; Miss Antonia Hernandez, associate counsel to the Mexican American Legal Defense and Education Fund; and Mr. Arnoldo Torres, national executive director of the League of United Latin American Citizens.

We welcome all of you to this subcommittee. We hope that you will be chatting with us informally and not reading from your prepared texts. Your prepared text will be printed in the record in full, every word of it. So perhaps each of you could take 5 or 6 minutes to summarize your statements for the subcommittee, and then I am sure that we will have some questions for you. So let us begin with Dr. Finn.

STATEMENTS OF MARTIN D. FINN, M.D., MEDICAL DIRECTOR OF PUBLIC HEALTH PROGRAMS, LOS ANGELES COUNTY DEPARTMENT OF HEALTH SERVICES; ANTONIA HERNANDEZ, ASSOCIATE COUNSEL, MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND; FERDINAND GAENZEL, ASSOCIATE EXECUTIVE DIRECTOR, SUPPORT SERVICES, BEXAR COUNTY HOSPITAL DISTRICT, SAN ANTONIO; AND ARNOLDO S. TORRES, NATIONAL EXECUTIVE DIRECTOR, LEAGUE OF UNITED LATIN AMERICAN CITIZENS

Dr. FINN. Mr. Chairman, I am Martin D. Finn, the medical director for public health for the department of health services of Los Angeles County. The department is very appreciative of this opportunity to express its views on health status of the undocumented alien.

The exact number of aliens is not known, but the severity of the problem for Los Angeles County can be demonstrated by the fact that in this fiscal year the county will spend $100 million to cover unreimbursed costs and an additional $43 million will be spent which is reimbursed through Medical. Approximately by estimate 23 percent of the health services of our county are delivered to undocumented aliens, and probably the most significant figure for the future is the fact that 64 percent of the deliveries in our obstetrical units in the hospitals are undocumented aliens.

We have been aware of the problem of undocumented aliens as a significant health question for approximately the last 10 years. The diseases which these aliens bring to us are those which are endemic in their country. They seem to break down and have problems relating to these diseases for about the first 5 years that they are in our country. They also bring with them the level of health care that they had received.

If you look at the question of immunizations, if there are not adequate immunizations in their country then it becomes a requirement of our health system to deliver those as soon as possible. Many of the aliens who would be covered by the passage of the bill are known to our health system. They have received services both

in the curative side and the preventive side of the department. Their care is viewed as a protection for the entire community.

Public health particularly looks at statistics to measure its success and those statistics are influenced by the entire population. If we look at specific disease problems which cause difficulty, the infectious diseases, probably tuberculosis is that which most would consider. The tuberculosis problems for the undocumented from south of the border are very similar to those we have seen in the Southeast Asian population. Approximately 60 percent of those coming to us have positive Mantoux. That means that they have the infection of tuberculosis although they may not have broken down into active clinical disease. They have the potential to break down into active communicable disease probably in the range of 5 to 10 percent. Therefore, tuberculosis is the question we must follow. It takes a great amount of time. It involves compliance if the patients are placed on medication, and it is most significant for Los Angeles, as it is one of the major metropolitan areas which has not followed the national trend for a decrease in this disease.

Hansen's disease or leprosy, we have about 300 patients followed. This is not a communicative disease, but time spent is excessive. Malaria is a problem coming more from Southeast Asia or Central America. Enteric diseases, those diseases related to the bowels, cause great problems. They are of significance particularly in the workplace if residents are involved in food handling.

I noted that 64 percent of the deliveries in our hospitals were in the undocumented population. This shows the extremely high fertility rate in this population and shows the great need for both maternal and child health services for the population. Maternal services must include prenatal and postnatal care. The lack of prenatal care is evidenced in many cases. Prematurity—3 years ago we reviewed our cases of congenital syphilis. That year we had 23 cases, and 15 of those cases could be related to either no or inadequate prenatal care for the patient.

Mr. SCHEUER. Would maternal and child health care also include family planning?

Dr. FINN. Yes, it would in our county. The services for children should include well-child care and immunizations. Again, immunizations and these services are most important in the early years either because of just being born in this country or just arriving. Immunization needs are extremely high for the zero to 4 or the school-enterer age.

The benefits of these programs are for the entire community. And again it should be stressed that many of the patients who would be covered by the passage of the law are already known to us. However, the benefits of a screening program would be considerable and would help us in identifying those needs where we should have some input at this time. It should be noted that for all of these medical problems of the undocumented, there are increased health education and nutritional requirements. Language also is a severe difficulty. The aliens are being assimilated into a new culture. They face many problems just in meeting those needs, and without proper assistance, proper education, they do not always place medicine, medical care in the proper priority.

The county of Los Angeles has always wished and would continue to wish good medical care for everyone within its jurisdictions. I think it is very important to note that preventive services under the health and safety code in our State are services which can be delivered to all, and it is for this reason that the bill if passed should speak or we hope that it would speak to not only curative services but all of the very significant and important preventive services. Therefore, Los Angeles County certainly supports the passage of 1510 as long as there is a provision for 100-percent reimbursement of State and local needs. This service is required. It is advisable medically, and it would be to the total benefit of our community.

[Dr. Finn's prepared statement follows:]

STATEMENT OF MARTIN D. FINN, M.D., MEDICAL DIRECTOR OF PUBLIC HEALTH PROGRAMS FOR THE LOS ANGELES COUNTY DEPARTMENT OF HEALTH SERVICES:

MR. CHAIRMAN, HONORED MEMBERS OF THE SUBCOMMITTEE, MY NAME IS MARTIN D. FINN, M.D. I AM THE MEDICAL DIRECTOR OF PUBLIC HEALTH PROGRAMS OF THE LOS ANGELES COUNTY DEPARTMENT OF HEALTH SERVICES. THE DEPARTMENT WELCOMES THIS OPPORTUNITY TO TESTIFY ON HEALTH ISSUES RELATING TO HR 1510, THE IMMIGRATION REFORM AND CONTROL ACT OF 1983.

THE COUNTY OF LOS ANGELES IS SIGNIFICANTLY IMPACTED BY THE HEALTH NEEDS OF UNDOCUMENTED ALIENS WITHIN ITS JURISDICTION. WE ESTIMATE THAT, IN FISCAL YEAR 1982-83, THE LOS ANGELES COUNTY DEPARTMENT OF HEALTH SERVICES INCURRED UNREIMBURSED COSTS OF $99.5 MILLION FOR HEALTH CARE TO UNDOCUMENTED ALIENS. AT THIS TIME, UNDOCUMENTED ALIENS REPRESENT APPROXIMATELY 23 PERCENT OF THE TOTAL NUMBER OF PATIENTS UTILIZING LOS ANGELES COUNTY HEALTH FACILITIES AND ALSO ACCOUNT FOR 64 PERCENT OF THE BIRTHS OCCURRING IN LOS ANGELES COUNTY PUBLIC HOSPITALS. THE DEMAND FOR COUNTY HEALTH SERVICES BY UNDOCUMENTED ALIENS IS, THEREFORE, QUITE SIGNIFICANT. THOUGH THERE IS NO ACCURATE REPORTING OF DISEASES UNDER THE CLASSIFICATION OF "UNDOCUMENTED ALIENS", WE DO KNOW GENERALLY THAT MOST IMMIGRANTS, OF WHICH MANY ARE UNDOCUMENTED, ENTERING THIS COUNTY REFLECT THE USUAL RATES OF DISEASES PREVALENT IN THEIR COUNTRY OF ORIGIN, AND MANY POOR

IMMIGRANTS ENTER THIS COUNTRY WITHOUT HAVING HAD THE BENEFIT OF BASIC HEALTH CARE. AS AN EXAMPLE, IT IS APPARENT THAT THE IMMUNIZATION LEVELS OF MANY IMMIGRANTS ARE FAR BELOW THOSE WHICH ARE CONSIDERED "ACCEPTABLE" FOR THE GENERAL POPULATION IN THE COUNTY OF LOS ANGELES. THIS IS EVEN MORE NOTICABLE IN THE CASE OF NEWLY ARRIVING ADULTS. IT IS ONLY AFTER FIVE YEARS OF RESIDENCE IN THE UNITED STATES THAT THE DISEASE RATES FOR THIS GROUP BEGIN TO APPROXIMATE THOSE OF THE GENERAL COUNTY POPULATION. FOR THIS REASON, THE HEALTH STATUS OF UNDOCUMENTED ALIENS NOW COMING INTO THIS COUNTRY IN LARGE NUMBERS IS OF CONSIDERABLE CONCERN TO PUBLIC HEALTH OFFICIALS.

SOME OF THE SPECIFIC AREAS IN WHICH THERE IS CONCERN FOR THE HEALTH STATUS OF THE NEWLY ARRIVED ALIEN ARE: TUBERCULOSIS, MALARIA, AND HANSEN'S DISEASE (LEPROSY). THIS IS BECAUSE THE IMMIGRANTS COME FROM MANY COUNTRIES WHICH DO NOT HAVE THE LEVEL OR QUALITY OF PREVENTIVE SERVICES OFFERED IN LOS ANGELES COUNTY OR THE UNITED STATES. BESIDES THE BASIC HEALTH CARE REQUIRED TO TREAT THESE DISEASES, IT IS IMPERATIVE THAT PREVENTIVE MEASURES BE INSTITUTED IF THE TOTAL HEALTH OF THE COMMUNITY IS TO BE PROTECTED. CONTROL OF TUBERCULOSIS ALONE ENTAILS: TUBERCULIN SCREENING, PROPHYLAXIS TREATMENT (IF INDICATED), FOLLOW-UP ON COMPLIANCE, TREATMENT OF THE ACTIVE CASES, AND A MEANINGFUL HEALTH EDUCATION PROGRAM. ALL OF THIS COSTS MONEY, AND THE FEDERAL GOVERNMENT, WHICH IS RESPONSIBLE FOR IMMIGRATION, SHOULD BEAR THE BURDEN. LOCAL JURISDICTIONS SHOULD NOT.

ANOTHER AREA OF TREMENDOUS NEED IS MATERNAL AND CHILD HEALTH. AS NOTED PREVIOUSLY, MOST OF OUR MATERNAL HOSPITAL CASES ARE UNDOCUMENTED ALIENS. THE DEMAND FOR SERVICES IS GROWING FROM THIS POPULATION, AND IT IS MOST IMPORTANT THAT ESSENTIAL MATERNAL AND CHILD HEALTH SERVICES BE MADE AVAILBLE TO THEM. OFTEN, THE PATIENT DELIVERING IN A COUNTY HOSPITAL HAS HAD NO PRENATAL CARE FOR LACK OF EDUCATION OR FEAR OF OBTAINING SERVICES. AFTER DELIVERY, POSTNATAL CARE IS IMPORTANT, AND IMMUNIZATIONS ARE REQUIRED FOR GOOD HEALTH FROM THE TIME OF BIRTH UNTIL THE POINT OF ENTERING SCHOOL. AGAIN, HEALTH EDUCATION AND ESPECIALLY NUTRITIONAL EDUCATION ARE MUCH NEEDED. THESE PATIENTS ARE AT THE POINT OF INTRODUCTION INTO A "NEW" CULTURE. WITHOUT PROPER HEALTH EDUCATION, THEIR DIETS, NUTRITIONAL STATUS, AND PHYSICAL WELL-BEING OFTEN SUFFER. DAY-TO-DAY DECISIONS ARE MORE OFTEN MADE BASED ON SOCIAL OR CULTURAL PRACTICES RATHER THAN ON HEALTH REQUIREMENTS.

IN SUMMARY, IT IS CLEAR THAT UNDOCUMENTED ALIENS RECEIVE A MULTIPLICITY OF HEALTH SERVICES FROM LOS ANGELES COUNTY PUBLIC HEALTH FACILITIES. IT IS EXPECTED THAT THE DEMAND FOR SERVICES COULD POSSIBLY INCREASE IF HR 1510 PASSES. IT IS ESTIMATED THAT FROM 750,000 TO 1.1 MILLION UNDOCUMENTED ALIENS MAY BE GIVEN LEGAL STATUS IN LOS ANGELES COUNTY. MANY ALREADY RECEIVE SOME HEALTH CARE, BUT MANY DO NOT RECEIVE ADEQUATE CARE. THESE PEOPLE, THEREFORE, REQUIRE BETTER HEALTH CARE, HEALTH EDUCATION, AND INTEGRATION INTO THE COMMUNITY HEALTH SYSTEMS. PASSAGE OF HR 1510 COULD SERVE TO IMPROVE CARE. THE FEDERAL GOVERNMENT, NOT LOCAL GOVERNMENTS, SHOULD BE RESPONSIBLE FOR THE COSTS FOR SUCH SERVICES.

LOS ANGELES COUNTY, THEREFORE, SUPPORTS PASSAGE OF HR 1510, WITH THE PROVISION FOR 100 PERCENT REIMBURSEMENT OF STATE AND LOCAL COSTS THAT MAY RESULT FROM LEGALIZATION.

Mr. SCHEUER. Thank you very much, Dr. Finn.

Now we will hear from Antonia Hernandez, associate counsel of the Mexican American Legal Defense and Education Fund.

We are delighted you are here with us. Just chat with us informally as if you were in our living room and we were chatting away.

STATEMENT OF ANTONIA HERNANDEZ

Ms. HERNANDEZ. I intend to do so.

Mr. SCHEUER. We will have questions afterward. We have been joined by my distinguished colleague, Richard Shelby from Alabama.

Ms. HERNANDEZ. Thank you very much. It is a pleasure to be here today. Thank you for the opportunity to present our views.

My name is Antonia Hernandez, and I represent the Mexican American Legal Defense Fund. We have offices throughout the country, primarily in the Southwest.

Our concern is for the Hispanic American. Therefore, the issue of H.R. 1510 is very important to us and of importance to the subcommittee is the issue of legalization.

I would like to share a couple of views that we have on this issue. The issue of legalization and health care is one that is very important.

The debate to date has not, I think, been in the public interest. All we hear in most of the publicity and discussion is on the enormous cost of the undocumented population and the fear of the enormous potential cost to the localities, to the Governmental agencies, should the legalization pass.

We like to point out some studies that indicate that these assumptions, these fears are misplaced. I will not cite the studies, but they are cited in my testimony.

Basically, what they show is that as far as the undocumented alien population, this Government ends up getting more than it puts out particularly in the area of health care.

The problem associated with the distribution of the taxes that these individuals pay is the problem that we must consider. Undocumented aliens pay taxes: Federal taxes, State taxes and as consumers they pay the same taxes that you and I do. No one bothers to ask you whether you are undocumented when you are paying the taxes. As a consequence, they contribute to the economy and to all the Federal Government programs of this country.

Most studies have shown that there is an underutilization of governmental benefits by the undocumented. The reason I point this out is that these people, these undocumented, will be the ones that become newly legalized aliens, and so therefore in computing the potential cost of benefits, one must not only take into account what it will cost, but also what they bring into this community.

We have serious objections to the provisions in H.R. 1510 because of the 5-year denial of benefits, Federal benefits to these newly legalized aliens.

We believe that those prohibitions are restrictive, will be unworkable and I think they will be penny wise and pound foolish.

Therefore, if we are going to legalize these individuals, and we firmly believe that they should be legalized, then we must try to incorporate them into the mainstream of our society and not set a subclass of individuals.

If you look at what legalization does to these individuals, basically they are given two rights: the right to work and the right to pay taxes and nothing else.

That is unfair, and I think that it does not serve the interest of this country. Now, as to the issue of health care.

We object to the prohibitions and we object on the usual humanitarian grounds because it is unfair, but that usually doesn't sell.

I think that what will sell is that I think that it will be very ineffective and, in the long term, cost society a lot of money. These people are here. They are going to stay here, and I think to deny them health benefits during those 5 crucial years of their lives when they are trying to assimilate into this society will be very, very wrong and that we as a society will end up paying for it.

Now, H.R. 1510 makes certain exceptions for blindness disability and also for what they call in the public interest. We would propose that the definition of public interest be extended to include prenatal, pregnancy, postnatal and child care, and——

Mr. SCHEUER. How about family planning?

Ms. HERNANDEZ. That is part of the whole concern. I think that has been substantiated by the witness that just testified. Presently under the definition of emergency, I don't think that pregnancy could be classified as an emergency.

Prenatal care cannot be classified as a serious injury. The consequence of denial of health care at this point in time could lead to severe health benefits to children that are going to be born here——

Mr. SCHEUER. You don't mean severe health benefits. I think that was a slip of the tongue.

Ms. HERNANDEZ. Severe health problems. Thank you.

We, as a whole society, will end up paying for it. We would recommend that the exemption be further extended to cover those individuals' prenatal, pregnancy, postnatal, well baby care, and child care.

The other thing that we are concerned about in the bill is the requirement of a health exam. We have no objection to the health exam. We think it was a good amendment and it is a good public health policy. But we have concerns as to the way the requirement will be implemented.

Several studies, and one particular study, has indicated that some of the health exam requirements are unnecessary and costly, and in the process of legalization, it turns out that the health exam requirements sometimes turn out to be the most costly of all the costs incurred in legalization, whether you are coming in as an immigrant or are part of the legalization program.

For that reason we would recommend streamlining of the health care requirement. One of the things that we recommend is the elimination of the X-ray, and the utilization of a skin test to determine whether they have the TB, and then if, in fact, it is positive, then go to the X-ray.

We also recommend the extension and the use of blood and urine tests. They are more cost effective and you are able to determine more health problems.

The other thing that we also would like to recommend is that public health facilities be responsible for undertaking these health examinations.

The reasons we do this is because of uniformity and cost efficiency. All these people are in the communities, they reside in the communities, and I think if, in fact, there is going to be health care that has to be followed up, the health care facilities would be better able to undertake this type of treatment.

We are not advocating cost free. We are saying that the health care facilities should charge a fee. But we believe that the fee that these health care facilities would charge would be much less than the private sector would charge for these facilities.

Finally, in agreement with the other witness, we strongly recommend the implementation of an immunization program as part of the health care screening and testing. I think that as far as our community is concerned and the well-being of our society, it is in our best service cost efficientwise and for the health of everyone to institute these immunization programs at that point in time.

Thank you very much.

[Testimony resumes on p. 134.]

[Ms. Hernandez' prepared statement follows:]

TESTIMONY

ANTONIA HERNANDEZ, ASSOCIATE COUNSEL
MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND

Mr. Chairman, my name is Antonia Hernandez and I am Associate Counsel for the Washington, D. C. office of the Mexican American Legal Defense and Educational Fund(MALDEF). MALDEF is a national civil rights organization dedicatedto preserving the civil and constitutional rights of Hispanics in the United States. We currently have offices in San Francisco, Los Angeles, Denver, San Antonio and Chicago, as well as here in Washington, D. C.

In the past several years, we have devoted considerable attention to matters of immigration and immigrants' rights; so we are keenly aware of the significance of the issue before this Committee today. With the discussion now focused on the proposed Immigration Reform and Control Act of 1983, I would like to address MALDEF's concerns about the legalization proposal, especially the debate concerning health care services.

LEGALIZATION AND THE HEALTH CARE DEBATE

There is no topic more controversial than the issue of access to social services by immigrants, particularly those who would benefit from legalization. Efforts to develop long-term policy have largely been stymied by misunderstanding and misinformation--a situation recently exacerbated by growing xenophobia. Thus, it comes as no surprise that rational discussion of this subject should be derailed by exaggerated fears that undocumented persons pad the welfare rolls or that newly-legalized immigrants will suddenly rush to the local welfare office to sign up for a slew of entitlement programs. But as is the case with most fears, these are without foundation. In reality, the oppositive holds true. Tax contributions from the

undocumented community far exceed their use of public services. This conclusion has been repeatedly affirmed by numerous studies and acknowledged by such respected bodies as the Select Commission on Immigration and Refugee Policy. In its review of available research data, it found that--

> "All the partial sub-samples of illegal migrants indicate that illegal migrants pay taxes consistent with their earning levels. Data on social service usage from these studies, as well as fragmentary administrative records, show no large amounts of utilization of taxpayer-financed services."[1/]

Recognition of this fact came not only from the Select Commission More recently, the United States Supreme Court also adopted similar views in Plyler v. Doe, U.S. , 102 S.Ct. 2382 (1982), a case addressing the question of public educational benefits for undocumented children. The state of Texas had argued, among other things, that providing these benefits would deplete the treasury and drain the state's economy. Responding to this claim, the Court noted that

> There is no evidence in the record suggesting that illegal entrants impose any significant burden on the state's economy. To the contrary, the available evidence suggests that illegal aliens underutilize public services, while contributing their labor to the local economy and tax money to the State... 102 S.Ct. at 2401.

In light of the fact that such venerable institutions as the Supreme Court and the Select Commission have made similar findings, why

---

1/ Select Commission on Immigration and Refugee Policy,"Background Paper: The Economic Impacts of Illegal Migrants"(Washington, D. C., 1980) at 2.

has it been so difficult for Congress to reach the same conclusion? Perhaps it would do us well to examine the data more closely. In beginning this process, I would like to direct the Committee's attention to Southern California. Since it is the home of many immigrants--both documented and undocumented--social science research from this part of the country is especially useful in dispelling some widely held myths about undocumented persons and their utilization of public-financed programs.

Foremost is the myth that undocumenteds do not pay taxes. This is simply not true. The vast majority of immigrant workers pay taxes through payroll deductions:

** A 1978 study by the Orange County Task Force on Medical Care for Illegal Aliens found that 88 percent of undocumented residents had social security taxes regularly withheld from their wages and 70 percent had federal and state income taxes withheld.[2/]

** A 1980 study of Los Angeles garment and restaurant industries revealed that 92 percent of undocumented garment workers and 87 percent of undocumented restaurant workers had taxes deducted from their paychecks.[3/]

Undocumented persons, like other working people, pay taxes not only through withholding, but also through sales and excise taxes,

---

2/ Orange County Task Force on Medical Care for Illegal Aliens, "The Economic Impact of Undocumented Immigrants on Public Health Services in Orange County [California]: A Study of Medical Costs, Tax Contributions, and Health Needs of Undocumented Immigrants." Final Report presented to the Orange County Human Relations Commission (1978).

3/ Sheldon L. Maram, Hispanic Workers in the Garment and Restaurant Industries in Los Angeles County, Working Papers in U.S.-Mexican Studies, No. 12 (Univ. of California, San Diego: 1980) pp. 56,113.

since all are consumers. In addition,they pay some form of property taxes, even though they are not homeowners.[4/] When all of these revenues sources are considered together, undocumented immigrants generate substantial tax dollars:

** This was confirmed by a 1982 Los Angeles County analysis, which estimated that undocumented County residents paid over $2.535 billion in taxes. Of this total, about $1.48 billion (58 percent) was paid to the federal government; $830 million (33 percent) to the state; $95 million (4 percent) to the county; and $130 million (5 percent) to other local governments.[5/]

When their tax contributions are offset against the costs of providing public services, the net amount is usually lower than originally perceived:

** A 1976 study estimated that total tax contributions from undocumented California residents for health care programs ranged from $169 million to $247 million. After subtracting their financial contributions toward health care, the net cost to the state for providing these services was $59 million.[6/]

** The 1978 Orange County Task Force report estimated that in 1977, undocumented immigrants contributed between $83 million

---

4/ In California, an average of 17 per cent of the rental income goes to the payment of property taxes. See Wayne A. Cornelius, Leo R. Chavez, Jorge G. Castro, Mexican Immigrants and Southern California: A Summary of Current Knowledge, Center for U.S. Mexican Studies (Univ. of Ca, San Diego: 1982)at 53.

5/ Chief Adminstrative Officer, "Memorandum to Board of Supervisors, from Harry L. Hufford, Chief Administrative Officer, County of Los Angeles, Subject: Cost of Services to Undocumented Aliens," (Los Angeles: April 14, 1982) at 2. NOTE: These tax revenue estimates were based on CAO's estimate of 1.1 million undocumented persons living in L.A. County in 1982. That figure has since been determined to be too high. So tax revenue estimates would be slightly lower. Cf. David S. North, "Planning for Alien Legalization: An Initial Assessment of the Impact of the Simpson-Mazzoli Bill on Los Angeles County." Written for the Los Angeles County Board of Supervisors and the International Institute of Los Angeles. New Transcentury Foundation (Wash., D. C.: Nov,1982), Appendix B. North estimated that the range was closer to 800,000-950,000.

6/ Burt R. Cohen, "The Impact of Undocumented Aliens upon Health Care Programs within California." Office of Planning and Program Analysis, State of California (Sacramento: 1977) at 5.

and $145 million in taxes. The county's cost for providing medical care to undocumented patients at the county medical center was about $2.6 million.7/

** A 1980 San Diego study estimated that undocumented workers paid $16-31 million in taxes. Their use of public hospitals, schools and welfare programs amounted to only $11-22 million.8/

** The Los Angeles County CAO report of 1982 estimated that the County's expenses in providing the range of public services to undocumented residents came to $213.8 million. Of this amount, $76.5 million was spent on health care services. However, upon closer scrutiny, these figures proved excessive because of faulty methodology and unsubtantiated assumptions. Principal among them were the problems that no original research was done andthat cost estimates for health care services were "guesstimates" at best.9/

Just recently, more definitive information has appeared about undocumented health care needs, their use of public health facilities, and their fiscal impact on local government. And, once more, the myths about the tax burdens posed by undocumented use of the public health care system are unfounded. Preliminary data from a San Diego study indicate that few undocumented residents rely on free health care.

7/ Orange County Task Force on Medical Care for Illegal Aliens, "The Economic Impact of Undocumented Immigrants on Public Health Services in Orange County," supra at 8.

8/ Community Research Associates, "Undocumented Immigrants: Their Impact on the County of San Diego," Report prepared for the County of San Diego (San Diego, Calif., May, 1980).

9/ Chief Administrative Officer, "Memorandum to Los Angeles Chamber of Commerce, commenting on a draft report submitted to the Chamber by the Center for U.S.-Mexican Studies at the Univ. of Ca, San Diego," (Los Angeles: April 16, 1982). The CAO acknowledged that "it is not possible to break out illegal alien payments due to the method used for posting payments to open accounts..." id. at 2. In other words, patient records do not identify undocumented immigrants with reasonable accuracy. See Cornelius Chavez and Castro, "Mexican Immigrants and Southern California," supra at 55-59, for an extensive critique of the CAO report.

Indeed, the vast majority of undocumented residents appear willing--and do, in fact--assume personal responsibility for their medical bills.[10/] And, most prefer to pay in cash.[11/] When they utilize public health care facilities, they tend to wait until it becomes absolutely necessary.[12/]

This data sheds important light on the health care debate; for contrary to popular belief, undocumented residents are an under-serviced population. Rather than excessive dependence on public health care programs, there is a dominant pattern of underutilization. This stems not only from their fear of detection and apprehension by immigration authorities, but also their distress with becoming too indebted. Long-term undocumented residents who want to legalize their status must overcome the "public charge" barrier.[13/] This means that they have to establish a stable financial base sufficient to support themselves and their dependents and not be in debt to public agencies like county hospitals. Thus, there is an incentive to pay off medical bills. The same San Diego study cited previously[14/] reveals that these concerns often cause undocumented immigrants to avoid hospital care and to rely instead on

---

10/ Cornelius, Chavez and Castro, supra at 62.

11/ George Ramos, "Prepaid Medical Insurance for Illegals Urged," Los Angeles Times (June 6, 1983). Data cited in this article said that 83 percent of undocumented persons sampled in the study paid cash for medical services in their last visit.

12/ Cornelius, Chavez and Castro, supra at 65.

13/ Section 212(a)(15) of the Immigration and Nationality Act; 8U.S.C. §1181(a)(15).

14/ See Ramos, "Prepaid Medical Insurance," supra.

private physicians and community clinics. When they do require hospital care, they prefer outpatient clinics or emergency room care. Again, the fear of INS and the preoccupation with indebtedness motivate them to seek short-term treatment. So it is not surprising that San Diego medical facilities report few billing problems with undocumented patients. Many pay in cash; and if they do incur large hospital bills, they make every effort to pay them off.[15/]

Some policymakers are finally acknowledging that undocumented immigrants contribute far more to the public coffers than they take out in social services. But a fewstill express concerns that legalization will open the "floodgates," since the fear factor will be removed once they obtain lawful status. This apprehension, like others, is overstated. While some increased use of social services is likely, it is difficult to quantify what that increase will be. An early study disclosed that long-term immigrant residents did not differ greatly from their native-born counterparts in the use of public services.[16/] A more recent study[17/] showed little variation between documented and undocumented resident use of federally-funded Aid to Families with Dependent Children (AFDC). Preliminary analyses of the potential effects of legalization on tax-supported social service programs indicate they will not be significant, especially with regard to health care. San Diego, for instance, concluded that legalization would not greatly increase the demand for most county-supported

---

15/ Id. See also Cornelius, Chavez and Castro, supra at 63.

16/ Julian Simon, "What Immigrants Take from and Give to the Public Coffers," University of Illinois: 1980) at 24. Analysis was based on 1975 census data.

17/ David M. Heer, "The Socioeconomic Status of Recent Mothers of Mexican Origin in Los Angeles County: A Comparison of Undocumented Migrants, Legal Migrants and Native Citizens." Paper presented at the General Conf. of the International Union for the Scientific Study of Population (Manila, Philippines: December 1981), Table B. This study found the rate of AFDC utilization by permanent resident and citizen Mexican mothers to be virtually

services.[18] Los Angeles County, which commissioned an impact report, was advised that there would be little change in county health care costs.[19]

Despite these initial findings, H.R.1510 nevertheless imposes significant barriers to prohibit newly-legalized immigrants from qualifying for federal financial assistance, medicaid or foodstamps for a period of 5 years. Exceptions are made for age, blindness, disability, or medical conditions requiring treatment in the "interests of public health" or because "serious"illness or injury exists. But these exceptions do not imply entitlement to federal aid programs. This is very clearly stated in the House Judiciary Committee report.[20]

MALDEF finds these restrictions excessive and unreasonable for a variety of reasons. Our objections stem not only from a humanitarian concern that a population already underserved will continue to be denied access to needed social services. Nor is our disagreement based solely on the fact that all levels of government will continue to reap millions in windfall revenue from taxes collected from these newly-legalized individuals. There is a more fundamental issue at stake; and that is the probability that denial of access to social services--particularly

---

Footnote 17 continued from previous page

identical to that of undocumented mothers: only 2 percent of each group received AFDC income in 1979.

18/ County of San Diego, "Legalization of Undocumented Immigrants: Anticipated Fiscal Impacts." Office of Management and Budget, San Diego April, 1981).

19/ David S. North, "Planning for Alien Legalization: An Initial Assessment of the Impact of the Simpson-Mazzoli Bill on Los Angeles County," supra at 1.

20/ H.R. Rept. No. 115, 98th Cong., 1st Sess. 71 (1983).

health care--will lead to disastrous results in human and economic terms.

Health care made contingent upon "public health interests" or "serious" injury or illness does not provide any guidance for local and state entities. They simply beg the question. The line drawn between "emergency" and "non-emergency" medical care is often blurred. Moreover, "public health" concerns include more than the prevention or treatment of communicable diseases. They involve regular health maintenance to assure an individual's continued ability to function as a productive member of society. Whether learning in the classroom or being an efficient employee, these and other situations require a person to be alert, responsive and healthy. Thirty years ago, the President's Commission on the Health Needs of the Nation concluded that "access to the means for the attainment and preservation of health is a basic human right."21/ This was most recently affirmed by the present Commission, which stated that "society has an ethical obligation to ensure equitable access to health care for all" because of its "special importance."22/

If we recognize the health care problems unique to immigrants--their financial constraints, their hesitancy in approaching government-affiliated agencies, their minimal use of preventive medical care, language barriers and cultural differences--then we should understand the implications of neglect or delayed treatment brought about by a conscious policy decision to deny them access to medical services. A

21/ 7 President's Commission on the Health Needs of the Nation, U.S. Government Printing Office (Washington, D. C.: 1953) at 3.

22/ 7 President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, (Washington, D. C.: 1983) at 4.

minor health problem left undetected or untreated could lead to serious complications. Not only would this mean lost time and income, but a person could face long-term disabilities. Too often, this happens because a lay person is not capable of self-diagnosis. For instance, the identification and treatment of tuberculosis is clearly within the realm of public health. But how does one determine if a cough is the result of a simple cold or symptomatic of percipient TB? Intestinal cramps may reflect minor stomach irritations or they may signal the beginnings of shigella or salmonella. A lump in the breast may be malignant or benign; but how is a woman to know without further examination.

One of the best examples of the inadequacy of the statutory language in H.R. 1510 is the issue of prenatal care. A pregnancy is not necessarily a "serious" medical condition. Nor is prenatal care defined as "emergency" medical care. Yet one cannot ignore the vital role that prenatal care plays in preserving the health of an expectant mother and insuring the delivery of a healthy baby. Without it, a woman may face a life-threatening situation if nature aborts the fetus; or she may experience a complicated delivery that might have been prevented with prompt attention. In addition, lack of adequate prenatal care could result in still-born births or births of live infants with severe physical or mental handicaps. Thus, the relationship between accessible medical care and a healthy population is well known. But while preventive care for pregnant women has been shown to be cost-effective,[23/] an increasing number of local governments

---

23/ Gustava A. Koehler and Raymond G. DeVaies, Perinatal Health Care for the Poor: A Continuing Deficiency in California Department of Consumer Affairs, State of California (Sacramento: March 16, 1981).

have decided to make access to this care more difficult or even impossible. An example is Los Angeles. In 1981, the County ended a 50-year policy of providing free prenatal care and other services to the poor. The women who benefitted from these programs had no health insurance; and many were immigrants. The current policy now requires them to pay $20 to $30 per visit at county facilities. Since the implementation of the charge policy, prenatal visits to health clinics and outpatient departments of county hospitals have dropped by 21 percent; broken appointment rates have skyrocketed as much as 30 to 50 percent; and the premature birth rate has increased by 7.4 per cent.[24/] The consequences are indeed disturbing. Instead of a healthy infant a child born premature or handicapped may suffer life-long disabilities. Parents lacking the financial capacity or emotional stamina to assume responsibility, may turn to the state for help. If nothing else, government officials should be concerned with this possibility. Institutional care for a severely handicapped child costs over $20,000 a year in public funds. Medical attention for a premature baby, according to one neonatalogist, averages $80,000. [25/]

Since women and children will benefit from the legalization program, Congress cannot ignore this medically-vulnerable sector of the population. At minimum, it should amend the legislative language to explicitly provide health care services to these two groups. In the alternative, it may broaden the concept of "public health" to encompass

---

24/ Factual Memorandum and Argument in Support of Petition for Rulemaking to Declare Prenatal Care a Public Health Service and to Establish Standards for Access to Such Care by Low Income Women, submitted by Petitioners County Health Alliance, et. al. to Beverlee Myers, Director of the State Department of Health Services, June 29, 1982 at 21-26.

25/ Dr. James F. Padbury, "Perinatal Health of Los Angeles County's Indigent Population--A Fiscal and Political Cost Analysis." Testimony presented to the Los Angeles Commission on the Status of Women, May 19, 1982.

prenatal and well-baby care.[26] The reasons for this recommendation are all too obvious. As stated by the President's Commission for the Study of EthnicalProblems in Medicine--

> "...The origins of health needs are too complex, and their manifestation too acute and severe, to permit care to be regularly denied on the grounds that individuals are solely responsible for their own health."[27]

As it turns out, immigrants are, by and large, willing to assume responsibility. But neither the private nor the public sector want to share in that responsibility. Since most immigrants have no health insurance or money to pay for medical treatment, private medicine disclaims any obligation to care for them. The result is the same in the public sector. State governments find their medicaid budgets straining at the seams so they offer little support in this critical area.

The federal government so far refuses to assume any major responsibility. Consequently, local governments, by default, end up having to provide the care. But they are unwilling partners in this enterprise. As funds become scarcer, an increasing number of local governments are cutting back their health care services or narrowing the base of their

---

26/ A similar recommendation was made last year in California after a series of public hearings sponsored by the Department of Consumer Affairs, were held throughout the state. When the hearings were completed, Consumer Affairs prepared a report in which it suggested that prenatal and well baby care be defined as public health care and further that it be offered free of charge to indigent patients:

> "In those situations where counties have decided they must charge for health services as a last resort, all efforts should be made to use sliding scale fees...[I]f possible, prenatal and well baby care should be delivered free of charge for those unable to pay for care."

See California State Department of Consumer Affairs, Pregnant Women and New Born Infants in California: A Deepening Crisis in Health Care, March 26, 1982, at 18.

27/ 7 President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, supra at 4.

patient population. Common sense and fiscal wisdom would seem to dictate that this should not be the case. Denial of access to health care services will inevitably harm the most helpless and vulnerable: infants, children and women. If we value our future generations, and if we place a premimum on productive members of society, then Congress should not erect a 5-year barrier to medical services or trade off the physical and mental well-being of our immigrant population for the grant of legalization. This Committee must decide whether the short-term savings to be gained from such restrictions are worth the long-term social and economic costs. We think not.

LEGALIZATION AND THE REQUIREMENT OF A MEDICAL EXAMINATION

Now I would like to proceed to the next issue, which addresses the medical examination requirement.

H.R. 1510 provies that, in order to qualify for legalization, an undocumented person must satisfy the preliminary criteria of entry and unlawful status prior to January 1, 1982 and continuous residence thereafter. At the same time, the individual must meet other requirements, including admissibility as an immigrant[28/] In this context, an applicant needs to show that (s)he does not suffer from any contagious or debilitating diseases and that (s)he does not have any serious mental condition which might result in his or her exclusion. To identify such potential problems,

---

28/ To be admissible, an alien must not fall into any of the thirty-three (33) categories of exclusion delineated in Section 212 (a) of the Immigration and Nationality Act (hereinafter INA).

the bill requires an applicant to obtain a medical examination. Since this requirement already exists under present law,[29] it is important to understand the substance and procedures of current practice so that we will know what to expect with the implementation of the program.

Presently, the medical examination consists of a chest x-ray, a blood test and a physical check-up conducted by a physician chosen from an INS-approved panel.[30] The medical examination is usually done in the beneficiary's home country and reviewed by consular officials before an immigrant visa is issued. Physicians in foreign countries are contracted by the Public Health Service to provide the service. If an examination occurs in the United States, such as in the case of a person seeking adjustment of status, then state-wide doctors must satisfy the Public Health Service (PHS) qualification standards and charge a fee not in excess of the level set by INS.[31] Since the purpose of this medical examination is to screen out persons with serious physical or mental conditions, it is interesting to note that very few visa applicationsare rejected for medical reasons.[32] At the same time, however, we realize that immigrants are a medically-underserved population. So these examinations help to identify health problems which need to be corrected.

29/ Section 221(d) of the INA; 8 U.S.C. §1201(d); 22 CFR §42.113(a).

30/ 1A Gordon and Rosenfield, Immigration Law and Procedure, §§.7g (1981).

31/ 22 CFR §42.113(b).

32/ David S. North, The Virgin Islands Alien Legalization Program: Lessons for the Mainland , NewTrans CenturyFoundation (Washington, D.C.: May, 1983) at 26,29.

MALDEF supports the idea of a medical examination, since it benefits both applicant and society at large. But we are also concerned about the costs and quality of the examination. Estimates on the number of persons likely to benefit from legalization range from a high of 2.3 million[33/] to a low of slightly under 1 million.[34/] Since current practice allows only INS-approved physicians to conduct the medical examinations, it is not likely that these doctors will be able to handle the additional workload generated by the legalization program. Unless some provision is made, we may find the processing of applications delayed or applicants forced to see physicians not on the INS panel. In the latter instance, we may encounter varying degrees of quality as well as differences in the extent of an examination. It may be cursory, consequently missing certain conditions important to an INS determination. Or it may be excessive, as when a doctor calls for tests or treatment not deemed medically necessary. Thus, the potential for physician abuse is real; and when it happens, it is likely to be in the direction of over-treatment. For a person seeking legalization, this could result in prohibitive costs; since an applicant bears the financial burden of the examination and any treatment prescribed by a doctor. A recent North study on legalization from the Virgin Islands bears out this concern.[35/] It showed that the medical portion of legalization accounted for at least 63 percent

---

33/ Immigration and Naturalization Service, Implementation Plan: Immigration Reform and Control Act (March 9, 1983) at 7.

34/ S. Rep. No. 62, 98th Cong., 1st Sess. 62 (1983). See also House Report No. 115, 98th Cong., 1st Sess. 105 (1983).

35/ David S. North, The Virgin Islands Legalization Program, supra.

of the total costs for an applicant.[35] In some cases, the amount may be higher if an examination discloses an illness or medical condition requiring treatment. Since an applicant faces the possibility of exclusion, (s)he must pursue a course of treatment. Thus, additional costs are certain to be incurred.

In reviewing the usefulness of various laboratory procedures, the North study concluded that the chest x-ray was the most expensive procedure, yet the least likely to identify medical problems. To underscore this point, he cited the fact that both the American Thoracic Society and the American Lung Society had dropped the chest x-ray as a TB screening device because it was too expensive and created needless x-ray exposure.[36] Why the Public Health Service continues to require it seems to be rooted more in administrative, rather than medical, grounds. Since PHS is not able to monitor these examinations overseas, it has no way of maintaining accountability or insuring quality control other than through these x-rays. By periodically inspecting the charts, however, PHS personnel can ascertain whether the medical findings coincide with the laboratory results. In responding to this concern, North noted that this problem would not arise in the legalization program, since the examinations will be done inside the country. As an alternative, he suggested that a skin test be used in place of a chest x-ray. It is more effective in identifying the presence of tuberculosis and it is also less expensive. If a positive skin reaction is found, then other tests, including the x-ray, may be used.[37]

35/ Id at 37-39

36/ Id at 28-31.

37/ Id at 31.

A second alternative, in addition to the recommendation for a skin test, is to conduct more laboratory work. At the present time, a blood test is used only to identify the presence of syphilis; nothing more is done with it. In the Virgin Islands legalization program, a urine test was also mandatory, but it is not required by PHS in other localities. This does not make sense. Because these two examinations are more useful in detecting medical problems, we should consider incorporating them into the operating procedures for the medical portion of legalization. At the same time, we may want to expand their use for other purposes to determine if there are any latent medical conditions.

A third possibility is to develop an immunization program as part of the screening process. This is an important aspect of preventive medicine and simply makes sense in terms of protecting the public's health. Immigrants frequently come from countries where medical care is inaccessible except to the wealthiest persons or where medical technology has not developed the ability to address public health needs. Diseases which have been eliminated in this country--tuberculosis, whooping cough, diptheria, or polio--may be common in poorer areas of the world. We have the capability to meet this challenge through extensive community health educational efforts, as well as through public immunization campaigns. Many communities have already established broad immunization programs through the schools and public health clinics; so it would not be difficult to adapt them to legalization.

In developing various approaches to reduce the costs for this aspect of legalization and simultaneously benefit the applicant

population, we need to confront the question of how the medical portion of legalization will be administered. The North study suggested the participation of public hospitals and health clinics in this process.[36/] We should consider it. The recommendation is logical and sound from several points of view. First, it is evident that physicians currently under INS contract will not be able to assume the added workload without adverse effects on quality and efficiency. To add more doctors to the panels would be a possibility; but this may be unduly time-consuming, since local INS offices would have to do the screening. A more effective alternative would be the use of existing clinics and hospitals since local governments have already developed extensive public health networks that can be easily activated for this purpose. In many instances, public health care facilities now have on-going special programs (e.g. immunization, mental health, TB detection and treatment, etc.) which are less expensive than the same services provided by private physicians. Moreover, they have the ability to reach out to the community; so applicants can save time and expense by going to these facilities.

This recommendation for involvement of the public health care system does not mean that services would be rendered free of charge. To the contrary, an applicant would still pay a fee, so that local and state governments could recoup their costs,[38/] but the difference would be fees lower than those charged by private physicans. Placing responsibility on the public sector would eliminate some of the problems of inflated charges and unnecessary treatment encountered in private medicine. At the same time, there is an assurance of some degree of uniformity, which does not exist in the private sector.

This Committee, as well as local governments, should initiate a feasibility study of these proposals to determine how the medical screening can best be implemented at the least expense to the applicant. Given that this will be a rare opportunity for health care providers to help a medically-underserved population, we should find avenues to maximize the benefits for the immigrant and the public alike.

38/ If this is not possible, federal reimbursement should be considered. MALDEF firmly believes that medical fees should be kept at a reasonable level.

Mr. SCHEUER. Thank you very much, Ms. Hernandez, for your very excellent and articulate testimony. We appreciate it and we will have some questions for you.

I, myself, could not disagree with a thing you have said. I personally think that where it comes to—this is not the time for questions, but I can't help making the statement—as you say, the people are here and a woman is pregnant, she is going to be producing an American citizen.

It is totally against our national interest not to make sure that that infant gets all the prenatal care and postnatal care that any middle-class American child would get to make that a healthy, happy kid who is going to make it in America to the best extent of his or her health and ability.

To me, that 9-month period, and the period thereafter during infancy, that is an emergency during that period, because you only have one crack at bat. If that infant doesn't get prenatal care before birth, you have lost your chance, and irremediable harm may be done.

So I think you can make an excellent case that you have a one-time chance to positively affect and improve the health prospects of that child, that infant. And if you pass it up, you have done grave hurt to the national interest. And you certainly have presented that case with great intelligence, very, very thoughtfully.

Now, we will move ahead and hear from Ferdinand Gaenzel, associate executive director of the Bexar County Hospital.

STATEMENT OF FERDINAND GAENZEL

Mr. GAENZEL. Thank you.

Mr. Chairman, members of the subcommittee, I am Ferdinand Gaenzel, associate executive director for support services of the Bexar County Hospital District, which is located in San Antonio, Tex.

I appreciate this opportunity to testify on the health care provisions of H.R. 1510, the Immigration Reform and Control Act of 1983. My testimony is given on behalf of the Bexar County Hospital District and of the National Association of Public Hospitals.

NAPH represents 43 hospitals and hospital systems in our Nation's metropolitan areas. These hospitals today serve as the principal providers of hospital care for illegal aliens in our Nation today. Through a combination of State and significant local tax support, but almost entirely without any Federal assistance, this is one population for which public hospitals are truly the provider of last resort in America today.

The Bexar County Hospital District was created by State law with the mission of providing medical care to the needy and indigent residents of Bexar County. The hospital district is supported in part by an ad valorem tax levied on property owners in Bexar County.

The hospital district operates two facilities: The medical center hospital, a 612-bed acute care general hospital, and the Brady/Green Community Health Center, an ambulatory care facility with some 80 specialty clinics. The hospital district serves as the pri-

mary teaching facilities for the medical school located in San Antonio, the University of Texas Health Science Center.

San Antonio is only 142 miles from the Mexican border. Because of its size and large Hispanic population, San Antonio is a prime target for illegal migration, either for residency or as a stopover before going elsewhere.

The hospital district has provided, on the average, $2 million of medical care to illegal aliens annually. This $2 million of health care is a bad debt that is borne by the taxpayers of Bexar County. This amount reduces the hospital district's ability to provide or to plan for further expansion of needed services without imposing upon already overburdened taxpayers.

Medical care is very expensive. Let me review a few accounts which are currently on our illegal alien bad debt listing:

Case 1: An 83-year-old illegal alien was admitted through the emergency center with chest pains, and expired 15 days after admission. Total bill, $12,878.20.

Case 2: A 32-year-old illegal alien was admitted through the emergency center with a gunshot wound to the back. Discharged after 49 days. Total bill, $50,763.

Case 3: A 32-year-old illegal alien delivered her baby at medical center hospital. The mother was hospitalized 2 days, mother's total bill, $594. The baby developed complications at birth and was hospitalized 95 days. Total of baby's bill, $72,425.95.

Mr. SCHEUER. I would speculate that in all likelihood a major cause for that high bill was the lack of prenatal care.

Mr. GAENZEL. Absolutely.

Mr. SCHEUER. That can be an extremely costly penny-wise, pound-foolish national policy.

Mr. GAENZEL. Absolutely, I agree with you, sir.

Based on our experience, it is impossible to determine with any degree of accuracy the number of illegal aliens who utilize our services. Considering the covert manner of the illegal alien's daily existence, we may treat the same individual under three different identities in a week's time.

To cite a case, between June and December 1982, the same female illegal alien was admitted as a medical emergency four times under four different names and birth dates. This practice is detrimental to the patient and to the provider. The patient may suffer because a past medical history is not available and the facility suffers when it duplicates expensive diagnostic testing for the chronically ill.

As far as Texas is concerned, illegal aliens fall into four basic categories, each representing a unique health care problem.

First, illegal resident: One who comes to Bexar County, establishes a home and blends into the community with the intention to remain.

Second, temporary illegal: One who comes to make money for a month or two and returns home.

Third, transient illegal: One who stops in Texas on his way to Chicago or Washington or other metropolitan areas.

Fourth, aliens who are here from Mexico specifically for the purpose of receiving medical care. These persons are usually brought over by members of the family residing in the local area.

Each of these categories has different needs from the health care delivery system.

I will submit the health needs of each of these categories as part of my statement, and won't go through them here.

Some of these cases become social disposition as well as medical problems for the public hospitals which serve them. When their need for acute care is concluded, a continuing need for custodial care and family support begins. Since funding cannot be obtained for placement in a facility providing that level of care, the hospital must then begin a tedious process of coordination with family in Mexico, hospitals in Mexico, and the Mexican Consulate to arrange for the transfer of the patient. Additionally, the hospital pays all costs, including the transport by land or air ambulance.

On October 1, 1981, a 29-year-old Mexican national was received in our emergency center from the emergency medical service in Boerne, Tex., a small community north of Bexar County. The patient sustained a spinal cord injury after diving into a shallow creek, and was given necessary definitive treatment at a cost to the hospital district of United States, $42,818.25, yet unpaid. The patient had no relatives in the United States to accept responsibility, and arrangements were made with a hospital in Durango, Mexico to accept the patient. The hospital district paid for transport of the patient by land ambulance on December 4, 1981, at an additional cost of $320. The transport was necessary because the patient was paralyzed from the waist down and needed continuous and ongoing care.

Throughout Bexar County, as well as south Texas, most illegal aliens receive primary health care from small clinics operated by different groups, with a multitude of funding sources, including Federal, State, and local grants.

This treatment is provided on the basis of the patient's ability to pay, without regard to citizenship. Definitive inpatient and emergency care is generally provided by public hospitals who are funded through ad valorem taxes. Of the 254 counties in Texas, only 56 provide inpatient services. The burden for the most expensive form of health care is provided by a very small group.

I have additional comments in my written statement, but I will end my comments here.

[Testimony resumes on p. 147.]

[Mr. Gaenzel's prepared statement follows:]

NATIONAL ASSOCIATION OF PUBLIC HOSPITALS 1775 Pennsylvania Avenue, N.W., Washington, D.C. 20006 (202) 862-1090

Denver General Hospital
Boston City Hospital
District of Columbia General Hospital
Harris County Hospital District (Houston)
University of Medicine and Dentistry of New Jersey Hospital (Newark)
Grady Memorial Hospital (Atlanta)
Cleveland Metropolitan General Hospital
Santa Clara Valley Medical Center (San Jose)
Glades General Hospital (Belle Glade, Florida)
Los Angeles County U.S.C. Medical Center
Parkland Memorial Hospital (Dallas)
Truman Medical Center (Kansas City)
San Francisco General Hospital
Bellevue Hospital Center
Bronx Municipal Hospital
Cook County Hospital
Contra Costa County Health Services Department
Brackenridge Hospital (Austin)
Wishard Memorial Hospital (Indianapolis)
Chope Community Hospital (San Mateo)
Worcester City Hospital
Alameda County Health Care Services Agency (Oakland)
Westchester County Medical Center
Milwaukee County Medical Complex
Nassau County Medical Center
City of Memphis Hospital
Seattle Public Health Hospital
Los Angeles County King/Drew Medical Center
University of New Mexico Hospital
Harborview Medical Center University of Washington
Fresno County Valley Medical Center
Wayne County General Hospital
Los Angeles County Harbor UCLA Medical Center
St. Louis City Hospital
Charity Hospital System of Louisiana
General Hospital Ventura County
R.E. Thomason General Hospital (El Paso)
Kern Medical Center (Bakersfield)

STATEMENT OF FERDINAND GAENZEL
ASSOCIATE EXECUTIVE DIRECTOR, SUPPORT SERVICES
BEXAR COUNTY HOSPITAL DISTRICT
SAN ANTONIO, TEXAS
Friday, June 17, 1983
ENERGY AND COMMERCE COMMITTEE
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

Mr. Chairman, Members of the Subcommittee, I am Ferdinand Gaenzel, Associate Executive Director for Support Services of the Bexar County Hospital District, which is located in San Antonio, Texas. I appreciate this opportunity to testify on the health care provisions of H.R. 1510, the Immigration Reform and Control Act of 1983. My testimony is given on behalf of the Bexar County Hospital District and of the National Association of Public Hospitals.

NAPH represents 43 hospitals and hospital systems in our nation's metropolitan areas. These hospitals today serve as the principal providers of hospital care for illegal aliens in our nation today. Through a combination of state and significant local tax support -- but almost entirely without any federal assistance -- this is one population for which public hospitals are truly the provider of last resort in America today. From that perspective, I would like to offer some brief observations regarding the health related provisions of H.R. 1510. First, however, I would like to give the members of the Subcommittee some indication of the current health care needs of this population, including the way in which services are currently provided and financed. I would also like to share with you some of the problems encountered

by the providers who currently meet those needs in Texas and the San Antonio area today.

The Bexar County Hospital District was created by State law with the mission of providing medical care to the needy and indigent residents of Bexar County. The Hospital District is supported in part by an Ad Valorum tax levied on property owners in Bexar County.

The Hospital District operates two facilities: the Medical Center Hospital, a 612 bed acute care general hospital, and the Brady/Green Community Health Center, an ambulatory care facility with some 80 specialty clinics. The Hospital District serves as the primary teaching facilities for the medical school located in San Antonio, The University of Texas Health Science Center.

San Antonio is only 142 miles from the Mexican border. Because of its size and large Hispanic population, San Antonio is a prime target for illegal migration, either for residency or as a stop-over before going elsewhere.

The Hospital District has provided, on the average, $2 million of medical care to illegal aliens annually. This $2 million of health care is a bad debt that is borne by the taxpayers of Bexar County. This amount reduces the Hospital District's ability to provide or to plan for further expansion of needed services without imposing upon already over-burdened taxpayer.

Medical care is very expensive. Let me review a few accounts which are currently on our Illegal Alien Bad Debt listing:

CASE 1: An 83 year old illegal alien was admitted through the Emergency Center with chest pains, and expired 15 days after admission. Total bill: $12,878.20.

CASE 2: A 32 year old illegal alien was admitted through the Emergency Center with a gunshot wound to the back. Discharged after 49 days. Total bill: $50,763.90.

CASE 3: A 32 year old illegal alien delivered her baby at Medical Center Hospital. The mother was hospitalized two days, mother's total bill: $594.00. The baby developed complications at birth and was hospitalized 95 days. Total of baby's bill: $72,425.95.

CASE 4: A 21 year old illegal alien delivered her baby at Medical Center Hospital. The mother was hospitalized three days. Mother's total bill: $674.00. The baby was hospitalized 114 days. Baby's total bill: $61,844.47.

Based on our experience, it is impossible to determine, with any degree of accuracy, the number of illegal aliens who utilize our services. Considering the covert manner of the illegal alien's daily existence, we may treat the same individual

under three different identities in a week's time. To cite a case, between June and December, 1982, the same female illegal alien was admitted as a medical emergency four times under four different names and birth dates. This practice is detrimental to the patient and to the provider. The patient may suffer because a past medical history is not available and the facility suffers when it duplicates expensive diagnostic testing for the chronically ill.

As far as Texas is concerned, illegal aliens fall into four basic categories, each representing a unique health care problem.

1. Illegal Resident: One who comes to Bexar County, establishes a home and blends into the community with the intention to remain.
2. Temporary Illegal: One who comes to make money for a month or two and returns home.
3. Transient Illegal: One who stops in Texas on his way to Chicago or Washington, or other metropolitan areas.
4. Aliens who are here from Mexico specifically for the purpose of receiving medical care. These persons are usually brought over by members of the family residing in the local area.

Each of these categories has different needs from the Health Care Delivery System.

Category 1 persons have a need for the full range of health services because they are usually a member of a family unit.

Category 2 persons usually take jobs of the unskilled labor type on a day-to-day basis. Their need for services are for accident-type injuries for which their employer disclaims any responsibility. Others, due to their desire for low profile existence, will not seek medical care until the condition becomes emergent -- i.e., the common cold becomes pneumonia, the diabetic condition is out of control.

Category 3 persons are prone to accidents and injuries of a violent nature, i.e., injuries from transportation accidents such as falls from freight trains and motor vehicle accidents while hitchhiking. They are also, because of the local areas they frequent, susceptible to injuries from street crimes, such as shootings, beatings, and stabbings.

Category 4 persons are usually chronically ill and are, in our opinion, a planned migration by persons actually living in Mexico with family contacts in San Antonio. They appear in the Emergency Center desperately in need of care and usually are admitted for definitive care of the most expensive nature, such as cardiac care, diabetes, cancer therapy. Another type of person in this category is the pregnant woman about to deliver her baby. Often lacking adequate prenatal care, too many of these pregnancies result in complications for both mother and child.

23-094 O - 83 - 10

Some of these cases become social disposition as well as medical problems for the public hospitals which serve them. When their need for acute care is concluded, a continuing need for custodial care and family support begins. Since funding cannot be obtained for placement in a facility providing that level of care, the hospital must then begin a tedious process of coordination with family in Mexico, hospitals in Mexico, and the Mexican Consulate to arrange for the transfer of the patient. Additionally, the hospital pays all costs, including the transport by land or air ambulance.

On October 1, 1981, a 29 year old Mexican National was received in our Emergency Center from the Emergency Medical Service in Boerne, Texas, a small community north of Bexar County. The patient sustained a spinal cord injury after diving into a shallow creek, and was given necessary definitive treatment at a cost to the Hospital District of $42,818.25, yet unpaid. The patient had no relatives in the United States to accept responsibility, and arrangements were made with a hospital in Durango, Mexico to accept the patient. The Hospital District paid for transport of the patient by land ambulance on December 4, 1981, at an additional cost of $320. The transport was necessary because the patient was paralized from the waist down and needed continuous and ongoing care.

Throughout Bexar County, as well as South Texas, most illegal aliens receive primary health care from small clinics operated by different groups, with a multitude of funding

sources, including Federal, State and local grants. This treatment is provided on the basis of the patient's ability to pay without regard to citizenship. Definitive inpatient and emergency care is generally provided by public hospitals who are funded through Ad Valorum taxes. Of the 254 countiea in Texas, only 56 provide inpatient services. The burden for the most expensive form of health care is provided by a very small group.

Just four Texas counties with hospitals which are NAPH members provided over 367,000 inpatient days attributable to bad debt or charity care in 1982, out of a total of just 741,000 inpatient days provided for all patients. Those four hospitals spent $134,345,000 on uninsured indigents for inpatient care alone in that year, or nearly 42% of total inpatient costs of $320,652,000. This represents a 9% increase in patient days, but nearly a 50% increase in expenditures for uninsured indigents since 1980. Much of this care is for illegal aliens.

According to an obstetrician on staff at The University of Texas Health Science Center in San Antonio, Texas accounts for 8% of the births which occur in the United States. However, it accounts for 25% of "out of hospital" births in the nation, attended for the most part by untrained midwives. Because of the predominately Hispanic population in Texas, most of the out-of-hospital births are thought to be illegal aliens who do not receive prenatal or postnatal care.

The policy of the Hospital District presently precludes an illegal alien from receiving non-emergent medical treatment unless he is able to pay for that treatment. Many illegal aliens, therefore, do not seek or receive health care for a particular illness or injury until this condition becomes emergent. Legal residents of Bexar County have access to treatment for non-emergent conditions.

Since aliens legalized under the act will be entitled to all health services available to other persons who are legal residents of Bexar County, the local taxpayer will be assuming an increased tax burden. It does not seem to us to be a particularly humane option to exercise the "permission" the legislation will give us to refuse to provide local health services to legalized aliens. Indeed, many of those who will be legalized fall into the category of job-holding taxpayers themselves, although the jobs may be low-paying and health insurance may not be provided. Thus, the refusal of H.R. 1510 to provide federally-funded medical assistance, except under limited circumstances, appears to us to be little more than a mechanism for increasing the burden on the local taxpayer, and we are opposed to this prohibition.

However, recognizing the political and budgetary realities, we do approve of the Judiciary Committee's efforts to carve out exceptions, and provide for assistance to States. With regard to those provisions, I would thus like to offer several additional comments and suggestions:

First, we are concerned that the exception for medical services for persons who suffer "serious illness or injury" may not be interpreted by the Administration to include all necessary emergency services. While we believe the broader term should be retained to guarantee that assistance can be made available for persons with chronic illnesses requiring long term care, we believe a clarifying amendment is necessary to add explicit authority for emergency services.

Second, we believe the term "in the interest of public health" should also be clarified to ensure the availability of funding for services to certain particularly vulnerable categories of patients -- particularly pregnant women, infant children, and persons with communicable diseases that may not constitute a "serious illness," but nevertheless represent a substantial threat to other persons in the community.

Third, while we disagree with the overall prohibition against medical assistance, if it is retained we believe the Committee should clarify that it applies only to Medicaid eligibility and not to other federally funded health programs, such as community and migrant health centers, maternal and child health, family planning, etc. In some parts of the country, such services will be the only sources of primary care available to a "legalized alien" who has no other health insurance.

Fourth, while the bill uses the terms "aged, blind and disabled" in listing exceptions to the prohibition against financial or medical assistance, it is not clear whether it

is intended that such individuals also be eligible for the Supplemental Security Income program (and thus also the full range of Medicaid benefits). We believe the Committee should make clear that such persons are eligible under these programs.

Fifth, we would strongly urge the Committee to make grants for authorized medical care under the "legalization assistance program" available to local governmental entities as well as states, since (as is the case in Texas) such local entities often provide extensive programs of medical care for uninsured indigents, including aliens, and will clearly be affected by this program of "legalization." We would also urge a clarification of the reference to "existing" health programs in this provision. The apparent intent of the Judiciary Committee was to prevent States with no history of support for indigent health care for aliens from taking advantage of the 100% federal funding to start new health programs from scratch. However, we are concerned that this reference may unnecessarily tie the hands of states and localities which have made a substantial commitment from changing the nature of their health programs to respond to changing needs, including public health emergencies which may not yet even exist.

Finally, I would like simply to remind the members of the Committee that these provisions are aimed at just one segment of the illegal alien population -- those who would be "legalized" by this bill. As I have indicated in my description of the situation in Bexar County, there will remain health needs to be met on behalf of those aliens who will not achieve "legalized" status -- including those who, despite the admirable intentions expressed in this bill's enforcement provisions, will continue to sneak across the border solely to obtain medical care. The time must come soon when the federal government stops hiding its head in the sand regarding the health needs of these people, which are now being met largely through regressive local tax burdens on the citizens of just a small handful of our nation's communities.

Thank you again for this opportunity to testify. I would be happy to answer any questions you may have.

Mr. SCHEUER. Thank you very much.
Now we will hear from Mr. Torres.

STATEMENT OF ARNOLDO S. TORRES

Mr. TORRES. Mr. Chairman, I very much appreciate the opportunity to come before you and I hope not to be repetitious, and at the same time brief, because of the lateness of the hour and the fact that we began very late.

I would like to thank Mr. Schneider of the subcommittee staff for making it possible to testify today. I appreciate it and apologize for the lateness of the testimony that I submitted for the record.

I am Arnoldo Torres, the national executive director for the League of United Latin American Citizens, with 110,000 members in 45 States.

I would like to begin, Mr. Scheuer, by responding to some of the comments that you made in your introductory statements.

The comments that you discussed about the push factors are precisely the issues we have been raising for the last 2 years on this issue. That is precisely the reason why we regard this legislation as an extremely shortsighted approach to dealing with the problem of illegal immigration but, more importantly, of the problem of population movements in the country, and in this situation in the Western Hemisphere.

Without some of the provisions and concepts and ideas that you raised today being part of the bill, or without there being a bill simultaneously being discussed in foreign affairs, or in Senate Banking, in the International Banking Subcommittees, that address the primary push factors, and the fact that there is and must be a tremendous emphasis put on the development of underdeveloped and developing countries, this legislation in our opinion is going to create more problems than begin to solve any.

Mr. SCHEUER. What attempt?

Mr. TORRES. The attempt of the bill. In other words, the bill to try to reform immigration law and stop population movements—the employer sanctions idea, increased border patrol. Those things many regard as being very strong, in beginning to address the problem of population movements. That in our opinion is an extremely shortsighted approach of dealing with the problem of population movements to the United States.

Mr. SCHEUER. What do you think our policy ought to be with regard to population movements?

Mr. TORRES. I believe that in beginning to address the problem of population movements to the United States, we should attempt to be honest about the fact that the issue has taken years to develop. It is not an issue that a piece of legislation such as the Simpson-Mazzoli bill is in a position——

Mr. SCHEUER. Mr. Torres, why don't you just simply tell me what do you think our U. S. policy ought to be as regards population movements. Just make a simple declarative statement.

Mr. TORRES. I think what we ought to do is try to deal—try to improve our ability to enforce the laws in this country without creating new ones that in our opinion may create more problems and at the same time attempt to bring in the countries that send most

of the people to the United States, to begin some mechanism to deal with them on a bilateral, multilateral basis to see if in fact there is something we can do with them that just doesn't include us giving money to try to address the problems that they have.

I think our foreign policy has at times a great deal to do with population movements to the United States, and I think we should begin to examine how our foreign policy either exacerbates the movements or can be used to try to stifle the movements. In a very general way that is what I would respond.

Mr. SCHEUER. What you are saying is intriguing, and you sort of peaked my curiosity.

Why don't we hold the record open for 10 days or 2 weeks and let you submit a supplementary statement on what you think our national immigration policy ought to be, and how we ought to posture ourselves vis-a-vis these tremendous population flows that seem to be building up. We would be very interested in a detailed statement by you, as detailed as you can make it.

Mr. TORRES. Thank you very much, sir. I simply didn't want to lose the opportunity to respond to your comments.

Mr. SCHEUER. I don't want to lose the opportunity to a more detailed statement from you than time will permit right now. This is the Health and Environment Committee. We don't have time to listen to your views on immigration policy in extenso, but I am sure we would welcome them.

If you would give us a prepared statement on that, we will hold the record open for 10 or 12 days.

I now yield to our distinguished chairman, Mr. Waxman.

Mr. TORRES. I will continue.

The issue of legalization is in our opinion very, very important to the undocumented population in this country if in fact we are to have an immigration reform bill such as Simpson-Mazzoli. There are significant issues that have been addressed earlier today with regard to the fear that a legalization program would be of significant cost to the American public.

There is also the major concern that many Members of Congress have that addresses the issues of why reward someone who has been in the country illegally.

Well, I think the body of knowledge has come to the conclusion, and clearly the Senate has, and it appears the House hopefully will also, that legalization appears to be a very reasonable and responsible fashion for addressing the problems of the undocumented population that presently exist in the United States. However, it is important to understand that there are significant contributions that are made by the undocumented population, and those that choose to legalize their status will be those that qualify and in most cases will be those that are working, have had a history of working, have established significant equities in American society, and have long been members in a very contributive posture in American society.

The limitations that have been raised today are very important because there are a number of studies that do supplement and substantiate the statements by Mr. Finn and Mr. Gaenzel and Ms. Hernandez. However, it is also important to understand that the problems confronting Hispanic Americans who are American citizens or legal residents are also significant. There is a strong opinion in our community that the public health programs have not

been very responsive to Hispanic Americans, and the prohibition in the legislation is, in our opinion, one that will exacerbate the health problems that already exist.

The consequences of failure to provide health benefits or health services to the undocumented population who choose to legalize their status in the United States is a significant problem. The consequences have been alleged or have been indicated today as not in the public good. But at the same time, failure to provide public health costs from the Federal Government in our opinion will create significant difficulties at the local level.

If the local taxpayer feels that the local tax burden is going to be increased, we are very concerned about the consequences of the antagonism that will be developed at the local level.

Furthermore, the public health problems that would be presented to the general public are of extreme concern to us at this time.

What we would like to recommend to this committee is that in addition to what you have heard today earlier in recommendations, we feel very strongly that Federal programs should be—Federal-funded public health services should be provided in the areas of communicable diseases, obstetrics, prenatal, neonatal, and preventive care. Obviously the family planning provision idea is one that should be inclusive.

The last comment that I would like to make is the concern that there are 12 to 25 million undocumented people in the United States. This has been a figure that many people have played with. Some have even decided to say there is 3.5 to 6 million according to Census assessment of various other studies that have been done. But the Census study just came out with new figures on April 14, a report by Robert Warren and Jeffery Passel, that indicates that there are some 2.1 million undocumented people that are in essence a permanent population—that probably will most want to avail themselves of a legalization program if in fact such a program comes about.

So the idea that we are talking about, double digit millions of undocumented people, is in fact a major exaggeration that we believe has created various problems for Members of Congress who choose to support legalization on the merits, but are concerned about the fact that the public response to legalizing so many millions of people is going to create problems for them politically.

I think it is important that this subcommittee learn as much as it can about the new statistics and the study, and I would submit it for the record, because it appears to be an extremely accurate study, and it is one that is based on empirical knowledge, and not one on hyperbole or exaggeration or appealing to the emotional fears of some people who have problems with foreigners coming into the country.

In closing, I would like to offer our assistance in working with subcommittee staff, to draft appropriate amendment language that we hope this subcommittee will report out and the full committee would report out to the floor by June 27. And we would be more than happy to work with you in developing report language that would also underscore the issues that we have raised today.

Thank you.

[Testimony resumes on p. 169.]

[Mr. Torres' prepared statement follows:]

STATEMENT OF ARNOLDO S. TORRES

Good morning Mr. Chairman and members of the Subcommittee on Health and the Environment, my name is Arnoldo S. Torres, I am the National Executive Director for the League of United Latin American Citizens (LULAC), this country's oldest and largest Hispanic organization with over 110,000 members in 45 states. On behalf of LULAC, I very much appreciate the opportunity to come before you today and present our views on H.R. 1510, the Immigration Reform and Control Act of 1983. Specifically, we compliment the chairman for wanting to discuss the issues surrounding the legalization provisions of this bill, the need to better understanding the health needs of the undocumented population, and to insure that the public health is effectively protected.

What follows is an overview of the legalization program and our concern for the exaggeration that the undocumented population who may legalize their status present major cost consequences to the American public. In addition, we have attached to our testimony excerpts of a study conducted of the impact the undocumented immigrant has on San Diego County. The report was issued in May 1980 and the excerpts included discuss the health care needs and costs of the undocumented worker who most likely would be in a position to want to legalize their status "have a lower incidence of infectious and parasitic deseases..." Furthermore, the report concludes that these communicable diseases, lack of immunizations, obstetric care, pre-natal care neo-natal care, and preventive care services should be adequately provided.

LEGALIZATION

Adjustment of Status Program:

Legalization has been cast on many fronts as an unfair program granting amnesty to law breakers, as a blank check for "illegals" to get on the entitlement rolls, and as an unbearable strain on state and local governments. The purpose of a legalization program is at least two-fold. First of all, legalization is to allow those persons who are presntly here without the benefit of documents the opportunity to apply to the Attorney General for an adjustment of their status. Secondly, the program seeks to identify or register those same persons so as to minimize the level of exploitation attendant to an undocumented status and to extend the benefits of citizenship or legal residency to those persons.

Existing immigration law prohibits the granting of U.S. residency, permanent or temporary, to persons who are likely to become public charges. The proposed legislation, H.R. 1510, has similar restrictions for those seeking an adjustment of their status through the legalization program.

LULAC contends that any legalization which makes adjustment of status discretionary, that is within the discretion of the Attorney General of the United States or his/her representatives dooms the program from the outset. Legalization must be a right created by positive legislation, not a discretionary enfranchisement subject to political influences. To that end, LULAC asserts that positive legislation create a commission, representative of the impacted groups, which is empowered with oversight authority and the development and implementation of rules and regulations for such a program.

Initially, it should be made abundantly clear that a two tier type adjustment of status program which disables participants from both necessary and practical access to entitlement programs will perpetuate the sub-class of persons legalization is intended to eradicate. Further, dialogue now as in the past suggests that it is questionable that only those who advocate on behalf of Hispanics through the legislative process, such as LULAC, find themselves alone highlighting both the intended purpose and the benefits which flow from eradicating a sub-class whose existence is not in the best interest of the country in general nor of Hispanics in particular.

The Bureau of the Census in its 1977 report to the Select Commission on Immigration and Refugee Policy, estimated that approximately three to six million persons live and work in this country without the benefit of documents which would identify them as "legally admitted aliens." Their presence and continued entry are due to several factors, not the least of which has been an immigration policy that has conveniently fluctuated to satisfy the needs of industrial and agricultural development in this country. During times of economic prosperity when the demand for minimally skilled and unskilled labor has been significant, that need has been reflected by the absence of any reference to the so-called negative impact of illegal immigration. Conversely, during times of economic hardship, as now, a restrictionist immigration policy has prompted both the rounding up of "perceived illegals" and mass deportations. These perceived illegals may in fact be legal residents. At minimum, they are persons entitled to share the benefits of a national development they have contributed to by coming here when needed and working where needed. Conveniently, it is all too often forgotten, as this country's history documentes, that Constitutional protections attach to all persons within our borders, not just to those fortunate enough to have come at the right time and place.

Political expediencies serve no real purpose other than promoting short-sighted public policy under the guise of reasoned constructive reform. Seldom do political expediencies address the real problems of disgruntled and unemployed constituencies. Restrictionist arguments also are convenient for they seek to maintain the status quo. Now as in the past, restrictionists argue that each undocumented worker displaces an American in need of work while not providing any incentive for bettering either working conditions or wages in those industries in which employment of undocumented workers predominates. The Washington Post, in its August 11th editorial "Law and the Illegal" reiterates that restrictionist view and cites as well an estimate that 4 to 9 million undocumented workers are in this country. Assuming that the Post's contention was acted on and apprehension and deportation of all illegals were possible, 9 million of this country's unemployed would then have job opportunities.

Curiously, the Administration in its version of the restrictionist view, argues that to legalize the undocumented workers, will give the very people whom other restrictionists and government agencies identify as taking jobs from

unemployed Americans, the signal that they can now quit their jobs and go on welfare. It is absurd to argue that people who are working full time on one hand, are also robbing the nation's welfare coffers on the other.

Conveniently forgotten are the numerous contributions made by these persons towards the national interest. Their contribution stimulates employment as well as tax revenues. To date the Administration, Congressional Budget Office and restrictionist supporters have been silent on the issue of revenue impact to the federal budget. This silence too is convenient.

This revenue assessment does not purport to assess the total impact but rather supplies one aspect which heretofore has been absent.

The following tax contribution and/or payment profile per income dollar is based on an undocumented worker. We assume the following:

- that there is a total of 6 million undocumented persons within this country's borders
- that of those 6 million, 80% are earning $4.81 per hour and 20% are earning $9.00 per hour
- that these persons are working
- that these persons are single and claim only one exemption
- that their employers are making the required deductions
- that these persons, who file yearly income taxes, do not itemize
- that FICA deduction is 6.7% of their salary
- that withholding (federal) is based on 1982 tax schedules

Based on an hourly wage of $4.81, 250 work days per year, and FICA contributions at the rate of 6.7% and undocumented worker pays a total of $644.54 FICA per year. Further, the same undocumented worker pays, according to 1982 tax schedules, a total of $1,130.00 per year in withholding taxes. Eighty percent of the undocumented worker pool contributes by working a total of $8,517,792,000.00 in FICA and withholding taxes.

Based on an hourly wage of $9.00 250 work days per year, and FICA contributions at the rate of 6.7% an undocumented worker pays a total of $1,206.00 FICA per year. Further, the same undocumented worker pays, according to 1982 tax schedules, a total of $3,105.00 per year in withholding taxes.

Twenty percent of the undocumented worker pool contributes by working a total of $5,173,000,000.00 in FICA and withholding taxes.

The above tax contributions and/or payments do not include the money that is paid for goods and services in the forms of exercise taxes which include but are not limited to tobacco, services, gasoline, transportation fares, etc. In addition, state and local taxes are not included.

Despite the contributions being made by the undocumented, H.R. 1510 contains provisions which will make those persons qualifying for legalization ineligible for "any program of financial assistance furnished under federal law including medical assistance." We regard this restriction as potentially unconstitutional, inequitable, and certainly a potential public health hazard.

We are concerned that if a person has been here 10 years and has never drawn any federal benefits and has paid taxes, owns property, been employed, and becomes unemployed during the 5 years, he or she cannot draw any assistance despite having contributed to assistance funds. Denial of assistance, wheter it be food stamps, medical assistance or any other program will force these persons into a sub-class status. Should they become unemployed, their alternatives become few if any.

We recognize that for many members of Congress, the providing of assistance for any undocumented person(s) presents problems. There is the view that these persons are here illegally and do not merit such assistance. In response, it is important to point out that those persons who legalize their status are persons no longer in an undocumented status. They have qualified to participate in the legalization program and are in the process of adjusting their status. In order to qualify an undocumented must prove that he/she has not comitted any criminal offense and is employed. Failure to meet these and other standards will render the person ineligible for legalization. We would also point out the study conducted by the U.S. Census Bureau, which indicates that there were 2.1 million

undocumented persons in the U.S. and not the estimated 6 to 10 million. This new finding should indicate that the numbers of persons who potentially would benefit from legalization are significantly less than previously estimated. Also, the INS has estimated that some 30%-35% of the total undocumented population would participate in the legalization program.

Conclusion and Recommendation

Hispanic health is a severe problem, primarily due to the lack of health care directly for this population, and the lack of data on prevalent illnesses among Hispanics. According to the 1976 Health Interview Survey (U.S. Department of Health and Human Services), Hispanics visit the doctor less than whites or other minority groups. Hispanics also have a nutritional deficiency rate 4% higher than the percentage rate for whites (10%), according to the Ten State Nutrition Survey, conducted by the U.S. Department of Health, Education, and Welfare, 1968-70. Hispanics also tend to die from a broader range of illnesses than Anglos.

A Lyndon B. Johnson School of Public Affairs Policy Research Project in 1975 (The Health of Mexican-Americans in South Texas) revealed that diabetes mellitus and infectious and parasitic diseases were major causes of death among Mexican-Americans of all age groups. Cancer and heart diseases ranked highest as causes of death in this study. Cirrhosis of the liver is responsible for a higher percentage of deaths among Mexican-American males than Anglo males and Mexican-American females have a higher percentage of deaths from complications of pregnancy in the age group 15-29 than Anglo females.

The 1975 study also concluded that in the 14 years of age or younger category, Mexican-American children have higher death rates from infectious and parasitic diseases, influenza, and pnuemonia than Anglo infants.

Preliminary data by the National Health Screening Council for Volunteer Organizations reveals a high incidence of tooth and gum problems among Hispanics. This is not surprising, because a 1978 study by Garcia and Juarez reported that Chicanos underutilize dental services, and generally only visit a dentist in acute cases.

This overview of the present health problems of Hispanic-American citizens and legal residents reflects major health problems. It has always been a concern of ours that existing federal programs do a poor job of outreach and providing health services to our community. Failure to address, and worse, to prohibit needed health care of those persons wishing to legalize their status can only seriously exacerbate our community's health problems and present dangers to public health.

We therefore recommend that this subcommittee report amendments to H.R. 1510 which will repeal the prohibitions and insure the provision of federally funded public health services dealing with communicable diseases, immunizations, obstetric care, pre-natal care, neo-natal care and preventive care. We would be more than willing to assist the subcommittee in drafting such language.

B. HEALTH CARE

Introduction

In order to understand the impact of the undocumented immigrant on health care, it is necessary to know more about their needs, their utilization patterns, their strategies for gaining access to services, and their actual expenses incurred -- particularly those which result in charges to the U.S. taxpayer. Within days of beginning this section of the fiscal impact study, it was evident to the investigators that the data available would limit the scope of the study. This report, then, is not intended to be conclusive. Rather, it is an attempt to bring the picture into clearer focus by exploring the information that is available and to pose questions which need to be addressed in further studies.

First, in regard to the need for health care services by this population, we can only provide an overview of their problems and suppositions about their needs for services. Most studies to date have focused primarily on the fiscal impact (Cross and Sandos, 1980; Cornelius, 1979, Human Resources Agency, County of San Diego, 1975, 1977; Orange County, task force on Mecial Care, 1978). A study prepared by the Office of Planning and Program Analysis, State of California,

IN 1977 CAUTIONED THAT "IN ADDITION [TO OTHER BIASES], MANY STUDIES ARE PREDOMINANTLY CONCERNED WITH THE FISCAL IMPACT OF THE UNDOCUMENTED ALIEN POPULATION UPON AVAILABLE SOCIAL SERVICES. THIS HAS LED TO VERY LITTLE RESEARCH OF THE SIGNIFICANT HEALTH NEEDS OF THIS POPULATION."[1]

WHILE THERE HAS BEEN LITTLE RESEARCH ON THE HEALTH NEEDS OF THE UNDOCUMENTED IMMIGRANT, THERE IS GENERAL CONSENSUS THAT THIS POPULATION APPEARS TO BE IN NEED OF A FULL RANGE OF MEDICAL SERVICES.[2] IN ORDER TO UNDERSTAND THE SERVICES NEEDED, IT IS IMPORTANT TO DEFINE MORE CLEARLY THE POPULATION OF THE UNDOCUMENTED IMMIGRANT. IN SAN DIEGO COUNTY, HEALTH CARE FACILITIES ARE IN A UNIQUE SITUATION BECAUSE OF THE PROXIMITY TO THE BORDER. THE BORDER AREA IS, IN EFFECT, AN EXTENDED COMMUNITY WHICH PERSONS ON BOTH SIDES CROSS THROUGH AT WILL. THE ANTHROPOLOGIST WHITEFORD (1979) HAS ARGUED THAT "PEOPLE ON BOTH SIDES OF THE BORDER CROSS OVER TO THE OPPOSITE SIDE, LEGALLY AND ILLEGALLY, FOR MANY PURPOSES AND THAT THEY APPEAR TO SELECT STRATEGIES THAT WILL TAKE ADVANTAGE OF THE OPPORTUNITIES AVAILABLE ON BOTH SIDES OF THE BORDER." DOES WHITEFORD'S OBSERVATION HOLD FOR THE ENTIRE 2,000 MILES OF THE BORDER, AND SPECIFICALLY FOR THE AREA OF HEALTH CARE? FROM OBSERVATION AND EXPERIENCE, OUR RESEARCH TEAM FEELS THAT IT DOES. IT WILL HAVE TO BE LEFT FOR ANOTHER STUDY TO TEST OUT EMPIRICALLY THE PRECISE EXTENT TO WHICH THIS IS APPLICABLE IN THE SAN DIEGO/TIJUANA AREA WITH RESPECT TO HEALTH CARE.

WHY THIS OBSERVATION IS RELEVANT TO OUR DISCUSSION OF HEALTH NEEDS IS THAT IT POINTS OUT THAT ONE CAN NOT LUMP ALL THE COMPONENT POPULATIONS INTO THE CATEGORY OF "ILLEGAL ALIENS" AND EXPECT TO HAVE A CLEAR PICTURE OF THE SITUATION. FOR INSTANCE, THERE ARE UNKNOWN NUMBERS OF MEXICANS HOLDING 72-HOUR PASSES AND SPECIAL MEDICAL PASSES.[4] WHILE SUPPOSEDLY KEPT FROM BECOMING PUBLIC CHARGES, THIS POPULATION, AS IS WELL KNOWN, CROSSES THE BORDER WHEN NEEDED TO RECEIVE WHAT THEY FEEL TO BE SUPERIOR MEDICAL CARE. THEY MAKE USE OF THE COMMUNITY CLINICS, THE COUNTY PUBLIC HEALTH FACILITIES, PRIVATE PHYSICIANS AND HOSPITALS, AND THE UNIVERSITY HOSPITAL. FOR THE MOST PART, IT IS FELT THAT THIS POPULATION PAYS ITS WAY IN TERMS OF SERVICES PROVIDED. HOWEVER, THERE ARE SUBSTANTIAL NUMBERS OF PASS HOLDERS WHO CAN NOT AFFORD TO PAY FOR THE SERVICES. ONE CAN ONLY CONJECTURE ABOUT THE IMPACT THIS POPULATION HAS ON HEALTH CARE FACILITIES IN SAN DIEGO COUNTY AS THE PROVIDERS OF SERVICE DO NOT MAINTAIN STATISTICS WHICH DESIGNATE PATIENTS AS PASS HOLDERS. THIS POPULATION (WHEN THEY BECOME PUBLIC CHARGES) ARE TECHNICALLY TERMED "PERMIT ABUSERS" AND TECHNICALLY LOSE THE RIGHTS OF ENTRY.

AN INTERESTING SIDE NOTE IN REGARD TO THIS POPULATION IS THAT MANY MEXICAN WOMEN WHO HOLD THESE PASSES CROSS TO HAVE BABIES IN THE UNITED STATES. BECAUSE OF THEIR PLACE OF BIRTH, THE BABIES ARE U.S. CITIZENS. IF THE EXPENSES CAN NOT BE PAID BY THE FAMILY, THE HOSPITALS USUALLY CHARGE THIS OFF TO "ILLEGAL ALIEN" OR

UNRECOVERABLE INDIGENT COSTS. PRIVATE HOSPITALS ARE NOT COMPENSATED FOR THESE EXPENSES. BECAUSE OF THE CONTRACT WITH THE COUNTY, UNIVERSITY HOSPITAL DOES RECEIVE PAYMENT FOR THESE PATIENTS. IF SOMEONE CROSSES THE U.S. BORDER WITH THE U.S. -BORN CHILD, THE BORDER OFFICIALS TAKE AWAY THE 72-HOUR PASS UNTIL THE PERSON PROVES THAT THE BILL AT THE HOSPITAL HAS BEEN PAID OR IS IN THE PROCESS OF BEING PAID.[5]

ANOTHER COMPONENT OF THE POPULATION USUALLY LUMPED INTO THE TERM "ILLEGAL ALIEN" IS THAT OF THE TRANSIENT. THIS POPULATION IS PASSING THROUGH SAN DIEGO COUNTY. THEIR DESTINATION IS USUALLY THE BARRIOS OF ORANGE AND LOS ANGELES COUNTIES OR THE AGRICULTURAL FIELDS OF NORTHERN CALIFORNIA. THIS COMPONENT ONLY AFFECTS HEALTH FACILITIES WHEN TRAGEDY STRIKES OR A LIFE-THREATENING ILLNESS FORCES THEM TO STOP AT AN EMERGENCY WARD. ONCE AGAIN, THERE ARE NO DATA AVAILABLE STATISTICALLY AND FISCALLY TO ACCOUNT FOR THE IMPACT OF THIS COMPONENT OF THE POPULATION. BECAUSE SAN DIEGO COUNTY IS ONE OF THE MAJOR ENTRY WAYS FOR THE IMMIGRATION OF PERSONS FROM LATIN AMERICA AND BECAUSE LARGE NUMBERS ENTER WITHOUT INSPECTION INTO SAN DIEGO COUNTY, IT IS FELT THAT THE IMPACT OF THIS POPULATION OF TRANSIENTS IS SIGNIFICANT. CASES MADE KNOWN IN THE PRESS INDICATE THAT MANY OF THE ACCIDENTS REQUIRE A GREAT DEAL OF TREATMENT AND EXPENSE FOR WHICH THERE IS NO COMPENSATION TO THE HOSPITALS.

A THIRD COMPONENT WHICH IS TERMED "ILLEGAL ALIEN" BY MOST FACILITIES IS THAT OF THE MIGRANT AGRICULTURAL

WORKER WHO WORKS IN SAN DIEGO COUNTY. THESE TEMPORARY MIGRANTS (TO BORROW CORNELIUS'S TERM) ARE INCLUDED IN THE DEFINITION USED BY THE INVESTIGATORS OF UNDOCUMENTED IMMIGRANTS. THESE PERSONS MADE UP A LARGE PORTION (91%) OF THE DETAINED POPULATION INTERVIEWED BY THE INVESTIGATORS AT THE CHULA VISTA SECTOR OF THE BORDER PATROL. THIS STUDY INDICATED THAT VERY FEW OF THOSE PERSONS SURVEYED UTILIZED HEALTH SERVICES EVEN THOUGH THEY WORKED IN JOBS WHICH EXPOSED THEM TO ENVIRONMENTAL HEALTH HAZARDS (PESTICIDES, FERTILIZERS, AND OTHER CHEMICALS) AND INJURY (MACHINERY, BACK INJURIES). BECAUSE THEY DID NOT UTILIZE HEALTH SERVICES TO ANY EXTENT, IT IS NOT KNOWN EMPIRICALLY WHICH SERVICES THEY NEEDED MOST. IT CAN BE CONJECTURED THAT BECAUSE OUR STUDY POPULATION WAS NEARLY 96% MALE AND BECAUSE 65.7% WERE UNDER AGE 25, AND ONLY 10% WERE OVER 45 YEARS OF AGE, MIGRANT AGRICULTURAL WORKERS PROBABLY HAVE SUBSTANTIALLY FEWER HEALTH PROBLEMS FOR WHICH THEY WOULD SEEK SERVICES. THIS DOES NOT MEAN THAT THEY DO NOT SUFFER FROM ACUTE, POVERTY-RELATED DISEASES. THE STATE REPORT CITED ABOVE STATES THE CASE FOR NEEDED HEALTH CARE FOR COMMUNICABLE DISEASES, SUCH AS TUBERCULOSIS.[6] THE UNITED STATES/MEXICO BORDER HEALTH ASSOCIATION (ROMERO ALVAREZ, 1975) REPORTED THAT WHILE SOME COMMUNICABLE DISEASES, SUCH AS SMALLPOX, CHOLERA, PLAGUE, YELLOW FEVER, AND TYPHUS, HAVE DISAPPEARED FROM THE BORDER AREA, THERE ARE OTHER DISEASES WHICH CONTINUE TO BE OF CONCERN TO BORDER HEALTH AUTHORITIES, SUCH AS RABIES, DIARREAHEAL DISEASE, AND ENTERITIS, ENCEPHALITIS, MEASLES, AND INFLUENZA. THE ASSOCIATION ALSO CITES SEVERAL DISEASES

AND TUBERCULOSIS AS BEING SERIOUS PROBLEMS WITHIN THE BORDER REGION.

SEVERAL MONTHS AGO, A MEMBER OF THE COUNTY BOARD OF SUPERVISORS TOURED THE CANYONS AND LIVING AREAS OF THE AGRICULTURAL WORKERS IN NORTH SAN DIEGO CITY AND NORTH COUNTY AREA. HE OBSERVED:

> THE CONDITIONS THAT WE FOUND INCLUDED (UNDOCUMENTED) WORKERS WHO WERE DRINKING THE IRRIGATION WATER WHICH WAS SO POLLUTED WITH PESTICIDES, FERTILIZER, AND THE LIKE THAT IT WAS ABSOLUTELY BEYOND BELIEF THAT PEOPLE WOULD BE DRINKING IT. THEY HAD ABSOLUTELY NO ACCESS TO SANITARY FACILITIES AT ALL. THE HOUSING WAS BASICALLY DOWN IN THE CANYON, UNDER TREES, AND IN A WAY THAT COULD NOT BE EASILY SEEN UNTIL YOU WALKED WAY DOWN THERE. HUNDREDS OF PEOPLE WERE CRAMPED INTO VERY SMALL PLACES WITHOUT EVEN THE MINIMUM OF PROTECTION AGAINST THE WEATHER. THEY ATE WHEN THEY COULD FROM CANS, WHICH WERE THEN THROWN AROUND THE LANDSCAPE ATTRACTING FLIES.7

THERE IS NO DOUBT THAT BECAUSE OF THEIR RESIDENCY STATUS, THIS POPULATION IS HESITANT TO USE EXISTING PUBLIC HEALTH FACILITIES AND HOSPITALS. IT IS FELT THAT SOME MIGRANT AGRICULTURAL WORKERS ARE RECEIVING CARE FROM THE COMMUNITY CLINICS. IN TALKS WITH CLINIC PERSONNEL, THE INVESTIGATORS LEARNED THAT WORKERS ON THE FARM IN BOTH SOUTH BAY AND NORTH COUNTY ARE BROUGHT TO THE CLINICS BY OTHER, U.S. EMPLOYEES OF THE FARMS. IN INTERVIEWS WITH SEVERAL FARM MANAGERS, IT WAS LEARNED THAT SOME WORKERS WERE TAKEN TO EMERGENCY WARDS AND PRIVATE PHYSICIANS WHEN THEY WERE INJURED AND THAT WORKMEN'S COMPENSATION WAS BILLED. THE AMOUNT OF THIS IMPACT IS NOT KNOWN. IT IS FELT -- ALTHOUGH THIS HAS NOT BEEN STUDIED -- THAT VERY LITTLE HOSPITALIZATION INSURANCE EXISTS FOR THIS POPULATION.

A FOURTH COMPONENT WHICH, ONCE AGAIN, IS UNIQUE TO THE BORDER AREA, COMPRISES "GREEN CARD" HOLDERS WHO ARE COMMUTERS FROM TIJUANA. THIS POPULATION (WHEN THE PATIENT CAN'T PAY FOR SERVICES, OR EXPENSES ARE NOT COMPENSATED FOR BY THIRD PARTY BILLING) IS ALSO CLASSIFIED MANY TIMES AS "ILLEGAL ALIEN" BY THE HEALTH CARE FACILITIES. LIKE THE 72-HOUR PASS HOLDERS, THESE PERSONS ARE SUPPOSEDLY NOT PERMITTED TO BECOME PUBLIC CHARGES, OR THEY WILL LOSE THEIR ENTRY PRIVILEGES. BECAUSE OF THE LACK OF DATA AS TO THE FREQUENCY OF SERVICE UTILIZATION AND THE TYPE OF SERVICES UTILIZED, THE IMPACT OF THIS COMPONENT OF THE POPULATION IS NOT KNOWN. IT IS KNOWN THAT THE MAJORITY OF THESE PERSONS HAVE WORKED IN THE SAN DIEGO AREA FOR A RELATIVELY LONG TIME. A SURVEY AT THE PORT OF ENTRY PLACED THE LENGTH OF TIME AT WORK IN THE U.S. OF THE COMMUTERS AT ROUGHLY TEN YEARS. THESE COMMUTERS WERE FELT, FOR THE MOST PART, TO BE "GREEN CARD" HOLDERS. (SEE CHAPTER 5 FOR A FULL DISCUSSION OF THIS COMMUTER SURVEY.) ONE CAN CONJECTURE THAT THIS POPULATION DOES NOT SUFFER FROM AS MANY ACUTE, CONTAGIOUS DISEASES AS THE TEMPORARY IMMIGRANTS AND TRANSIENTS WHO PASS THROUGH THE COUNTY OR WORK SEASONALLY IN THE FIELDS. THEY WILL HAVE A HIGHER STANDARD OF LIVING AND THEREFORE NOT BE AS AFFLICTED BY POVERTY-RELATED DISEASES FOUND IN THE BORDER AREA. IN MANY INSTANCES, THIS POPULATION WILL HAVE BEEN SCREENED BECAUSE OF THEIR WORK (RESTAURANTS AND CHILD CARE, FOR EXAMPLE) TO ASSURE THAT THEY DO NOT HAVE TUBERCULOSIS OR OTHER CONTAGIOUS DISEASES. BECAUSE THIS POPULATION HAS NO BARRIER TO LEGALLY HOLDING JOBS, IT IS FELT THAT THESE PERSONS FOR THE MOST PART WILL BE COVERED BY WORKMEN'S COMPENSATION AND WILL HAVE SOME DEGREE OF

HOSPITALIZATION INSURANCE. IT MUST BE NOTED THAT THERE DEFINITELY IS SOME PUBLIC FISCAL IMPACT MADE BY THIS POPULATION. WITH THE HIGH COST OF HOSPITALIZATION, IT IS FELT THAT MANY "GREEN CARD" HOLDERS DO LACK COVERAGE FOR MAJOR SURGERY EXPENSES AND CHILDBIRTH. IN THESE INSTANCES, THE CHARGES ARE USUALLY MADE TO THE CATEGORY OF "ILLEGAL ALIEN;" AND, AS HAS BEEN STATED ABOVE, THE IMPACT CAN NOT BE SEPARATED OUT BY THE HOSPITAL STATISTICS.

THE FIFTH--COMPONENT TO BE DISCUSSED IN THIS INTRODUCTION IS THAT GROUP WHICH IS MORE OR LESS PERMANENTLY SETTLED IN SAN DIEGO COUNTY. THIS IS THE OTHER OF TWO COMPONENTS WHICH IS INCLUDED IN THE INVESTIGATORS' DEFINITION OF UNDOCUMENTED IMMIGRANT (THE OTHER COMPONENT BEING THE MIGRANT AGRICULTURAL WORKER). CORNELIUS (1980), IN A RECENT WORK, HAS GIVEN US A PICTURE OF THE NATURE OF THE HEALTH PROBLEMS OF THIS POPULATION AND THEIR NEEDS FOR SERVICE BASED ON A STUDY IN TEN CALIFORNIA CITIES AND IN ILLINOIS. IN THIS PAPER, HE POINTED OUT THAT "THE PERMANENT SETTLERS HAVE SIGNIFICANTLY HIGHER INCOMES AND BETTER LIVING CONDITIONS THAN THE TRANSIENTS WHO WORK IN THE FIELDS OR IN THE MOST MENIAL OF URBAN-BASED JOBS."[9] THIS WAS BORN OUT BY OUR OWN SURVEY IN SAN DIEGO COUNTY. CORNELIUS GOES ON TO SAY THAT "THE PERMANENT SETTLERS SEEM TO HAVE A LOWER INCIDENCE OF INFECTIOUS AND PARASITIC DISEASES THAN THE TEMPORARY MIGRANTS."[10] HE ALSO POINTS OUT THAT THE "PERMANENT SETTLERS SEEM TO HAVE WIVES AND CHILDREN LIVING WITH THEM IN THE U.S." AND THAT BECAUSE OF THIS "THEY HAVE A GREATER NEED FOR OBSTETRIC CARE, (AS WELL AS PRE-NATAL AND POSTNATAL CARE), IMMUNIZATIONS.

FOR CHILDREN, TREATMENT OF CHILDHOOD DISEASES, AND OTHER KINDS OF NON-EMERGENCY AND PREVENTIVE CARE (E.G., DENTAL CARE) FOR FAMILY MEMBERS."[11] HE ALSO MENTIONS OTHER HEALTH PROBLEMS SHARED BY THE OTHER COMPONENTS OF THE MEXICAN IMMIGRANT POPULATION -- NAMELY, HEALTH AND INJURY HAZARDS OF THE JOB, NON-ACUTE DISEASES BROUGHT MANY YEARS AGO FROM MEXICO, AND LOW LEVELS OF IMMUNIZATION AMONG THE PARENTS AND CHILDREN."[12] OUR INTERVIEWS WITH THE 50 NON-DETAINED, UNDOCUMENTED PERSONS WERE NOT EXTENSIVE ENOUGH IN THIS AREA TO VALIDATE THESE FINDINGS FOR THIS POPULATION IN SAN DIEGO COUNTY. IT IS FELT BY THE INVESTIGATORS THAT CORNELIUS'S DESCRIPTION IS GENERALLY TRUE. THE STATE REPORT CITED ABOVE ALSO INDICATED THAT THE GREATEST NEED (OF THE UNDOCUMENTED ALIEN) APPEARED TO BE "EMERGENCY CARE WITH PERHAPS A SPECIFIC NEED FOR MATERNAL HEALTH CARE AND COMMUNICABLE DISEASES, SUCH AS TUBERCULOSIS."[13]

IT IS NOT KNOWN HOW MANY FAMILIES OF THESE PERMANENT SETTLERS UTILIZE THE HEALTH SERVICES IN TIJUANA AT THE RISK OF BEING CAUGHT AT THE BORDER. THE INVESTIGATORS HAVE BEEN TOLD OF INSTANCES WHERE THESE FAMILIES HAVE CROSSED THE BORDER TO VISIT A PHYSICIAN OR MASSEUR (SOBADOR). HOW WIDE THIS PRACTICE IS REMAINS QUANTITATIVELY UNKNOWN. IT IS KNOWN THAT MANY FAMILIES SEND FAMILY MEMBERS OR FRIENDS TO PURCHASE DRUGS AND HERBS IN THE PHARMACIES AND HERB STORES OF TIJUANA.

HOW GREAT ARE THESE NEEDS AMONG THE PERMANENT SETTLERS IN SAN DIEGO COUNTY? HOW FREQUENTLY DO THE PERMANENT SETTLERS IN SAN DIEGO COUNTY UTILIZE THE HEALTH SERVICES? WHAT FISCAL IMPACTS DOES THIS SPECIFIC POPULATION CREATE FOR THE HEALTH CARE FACILTIES? THESE ARE ALL SIGNIFICANT QUESTIONS

Conclusions

The fiscal impact to the County of San Diego of undocumented immigrants at University Hospital for the calendar year 1979 ranged from $440,988 to $818,811. However, the actual reimbursement to University Hospital for 1979 was $651,967.

The total cost impacts for University Hospital for undocumented immigrants for calendar year 1979 ranged from $1,904,876 to $1,969,108 to $2,071,716.
Note: A larger total impact of $4,017,684 was discounted by the investigators because patients other than undocumented immigrants (as defined by the investigators) were included in the totals.

A projection of the cost for all the hospitals in San Diego County ranged from $4,409,880 to $8,188,110 (based on the assumption that University Hospital serves 10% of all undocumented immigrants in San Diego County).

A projection of the cost impact for all the hospitals in San Diego County ranged from $2,204,940 to $4,094,055 (based on the assumption that University Hospital serves 20% of all undocumented immigrants in San Diego County).

The projected cost impacts for undocumented immigrants on University Hospital ranges from approximately 3.3% to 6.4% of the total for all patients.

The projected cost impacts for undocumented immigrants on all hospitals in San Diego County ranges from 1 % to 2% of the total for all patients.

WHILE UNIVERSITY HOSPITAL RECEIVES REIMBURSEMENT FOR "INDIGENT" PATIENTS (INCLUDING UNDOCUMENTED IMMIGRANTS), THE PRIVATE HOSPITALS RECEIVE NO COMPENSATION FOR THESE PATIENTS. "INDIGENT" PATIENTS ARE ALMOST ENTIRELY NON-RESIDENTS AND/OR NON-CITIZENS OF THE U.S. AS U.S. CITIZENS/LEGAL RESIDENTS ARE USUALLY ELIGIBLE FOR THIRD PARTY BILLING OF ONE TYPE OR ANOTHER. E.G., MEDI-CAL, MEDICARE.

THERE IS SOME INDICATION THAT UNDOCUMENTED IMMIGRANTS ARE BEING DISCOURAGED FROM UTILIZING HOSPITALS OTHER THAN UNIVERSITY HOSPITAL OR REFERRED TO UNIVERSITY HOSPITAL BECAUSE THE PRIVATE HOSPITALS ARE NOT FULLY COMPENSATED FOR THESE SERVICES. THE EXTENT OF THIS IS NOT KNOWN BUT SHOULD BE THE SUBJECT OF A FUTURE STUDY.

THE SCREENING PROCESS USED BY HOSPITAL INTAKE SERVICE MIGHT BE DISCOURAGING SOME UNDOCUMENTED IMMIGRANTS FROM OBTAINING NEEDED EMERGENCY SERVICE. A FORM PREPARED BY THE COUNTY COUNSEL (SIMILAR TO THE CA-6 FROM USED BY DPW) IS USED TO REFER SUSPECTED "ILLEGAL ALIENS" TO INS. IT IS NOT KNOWN HOW MANY HAVE BEEN REPORTED BY H.I.S. OR DEPORTED AS A RESULT OF THESE REFERRALS. THESE TYPES OF SCREENING MECHANISMS CAN RESULT IN PUBLIC HEALTH HAZARDS AND CIVIL RIGHTS VIOLATIONS. THIS PROCEDURE SHOULD BE THE SUBJECT OF A FUTURE STUDY TO SEE IF IT IS COST-EFFECTIVE AS WELL AS NON-DISCRIMINATORY.

BECAUSE OF A LACK OF WHAT MIGHT HAVE BEEN GARNERED FROM EACH HOSPITAL BY REVIEWING THEIR PATIENT FILES (A PROCEDURE WHICH COULD NOT BE UTILIZED IN THIS STUDY BECAUSE OF TIME AND COST FACTORS), IT IS SUGGESTED THAT A FOLLOW-UP STUDY BE CONDUCTED TO ASCERTAIN MORE RELIABLE COST IMPACTS. IT IS SUGGESTED, TOO, THAT THE DEPARTMENT OF HEALTH SERVICES, STATE OF CALIFORNIA, HOLD A WORKSHOP WITH THE INTAKE WORKERS AND SOCIAL WORKERS OF THE HOSPITALS TO PROVIDE THEM WITH GUIDELINES FOR COLLECTING DATA ON UNDOCUMENTED IMMIGRANTS IN A MANNER WHICH WILL BE "CONSISTENT WITH THE PROMOTION OF ACCESSIBLE, ACCEPTABLE, QUALITY HEALTH CARE SERVICES."

ADDITIONAL STUDY IS NEEDED IN THE SAN DIEGO COUNTY REGION TO DESCRIBE THE HEALTH STATUS OF THE UNDOCUMENTED IMMIGRANT AS WELL AS THEIR HEALTH CARE UTILIZATION PATTERNS AND THEIR STRATEGIES UTILIZED TO GAIN ACCESS TO SERVICES. MOREOVER, RESEARCH IS NEEDED TO DESCRIBE ADEQUATELY THE BARRIERS LIMITING THE PROVISION OF SUCH SERVICES--ESPECIALLY WHERE THE PUBLIC HEALTH IS BEING THREATENED (COMMUNICABLE DISEASES, LACK OF IMMUNIZATIONS) OR WHERE SERVICES ARE BEING OFFERED TO MOTHERS AND CHILDREN (OBSTETRIC CARE, PRE-NATAL CARE, NEO-NATAL CARE, AND PREVENTIVE CARE).

Mr. WAXMAN. Thank you very much.

Let me thank each of the members of the panel for your testimony. Sorry I had to be involved in some other conversations.

I want to recognize first for questions Mr. Shelby from Alabama.

Mr. SHELBY. Thank you, Mr. Chairman.

Mr. Chairman, before I ask a few questions, I would like to just make a brief statement if I could.

There is no question in my mind that Congress has a responsibility to do something about illegal immigration in this country. We have as legislators in the Federal area shamefully ignored our obligation to protect our sovereign borders from a surge of illegal aliens over the past years. These aliens seek a better quality of life, and we cannot blame them for that. As a compassionate nation, our largest stumbling block is the idea of deporting individuals who have come to America seeking prosperity and a higher standard of living for themselves and their families.

We have a long and respectful tradition of sensitivity toward those who come to this Nation to contribute to our society, devoting their talents, skills, or sheer willingness to work. But we cannot continue to keep the illegal back door unlocked while the legal front door remains open as well.

Very simply, there is simply no more room in the inn in my opinion.

While I recognize we are confronting an undocumented alien population of unknown proportions, I have found it very difficult to both philosophically and realistically come to terms with the idea of granting mass amnesty to those aliens who have entered this country illegally before a certain time.

The citizens of my district who suffer from one of the highest percentages of unemployment in the Nation simply cannot understand how we can contemplate adding millions more to the pool of unemployed.

On philosophical grounds, nothing is more precious than the freedom to live and work in our country and to grant this freedom unconditionally to individuals who have blatantly rejected America's laws seems to be a breach of justice. In rewarding those who have broken our laws, we have penalized those persons who have waited many years to emigrate legally to this country, a lot of them from Latin America.

In practical terms, it is clear that the United States simply lacks the machinery to deport millions of people. If we had an efficiently working immigration system in place, we would not be faced with this problem today. The fact is that something must be done. We cannot continue to ignore the existence of aliens in this country in great proportions as they are. Whatever the method this Congress finally agrees upon, and I pray we reach a consensus of opinion, the health care needs of millions of people are inevitably to be reckoned with. The members of this committee are going to have to deal with it.

Mr. Chairman, I have sat here and listened to most of the first panel. I missed a little of it. I believe the lady here, talking about prenatal care—and my colleague from New York, Mr. Scheuer—picked up on it.

I understand the need for prenatal care. It is probably cost effective down the road. But I suppose—and this is just supposition on my part—that the drafters of the bill were trying to get at a balance. If we give the people that are here now illegally amnesty, they said, if we grant them legal status, if they do so and so, then we are going to take something away from them—that must be the rationale—that they would otherwise have.

I think as a member of this committee and as a Member of Congress we have to look at, like the gentleman from New York alluded to, the cost in the long run. And I assume that is what you were trying to get at.

Ms. HERNANDEZ. Well, most certainly. The decision—there is some philosophical difference as to whether legalized or not, but once the conclusion is made that these people are going to be legalized, they are going to become members of our society, of our country.

We always talk about the question of assimilation. There is no greater hindrance to the process of assimilation than creating a subclass of individuals by denying them the basic benefits, the basic needs that they need to become active, produtive members of our society. And that is what we want.

In the area of prenatal pregnancy, child care, we are dealing with women who have been legalized or will be legalized. We are dealing with children who are going to be U.S. citizen children. And so it does not make any sense to bring in these individuals and then to deny them health benefits that in the long run, if the child is formed with disabilities, we are going to pay for it. That person will not be a contributing member of our society. So that in the self-interest of this country, I think it serves our interest to say we are going to provide and give them access to certain basic benefits, such as health, that will enable them and enhance the probability that they will be healthy, contributing members.

Mr. SHELBY. I understand that. And I know what you are saying, and this committee and the chairman has been very instrumental in preventive health care. This might be one way to do it.

I know the Judiciary Committee has jurisdiction of a lot of this bill. It has been referred to it. We are mainly concerned with the health aspects of it.

But I did have to say, because I feel that way, that the amnesty problem bothers me. If you can get past the amnesty problem, then it is very illogical to deny health benefits to people that are here.

Ms. HERNANDEZ. Well, let me make a couple of comments.

I know some people have a philosophical problem of legalization. It is not amnesty. Amnesty connotes a blanket forgiveness. Legalization is a 1-to-1 determination. The cutoff date is one hurdle you have to meet. You have to meet all other hurdles. Legalization was first conceived—it is sort of doing good by doing well or doing well by doing good. That is the primary reason for it, was to clean the slate, that we didn't have the resources to massively deport everybody. And if you look at it from that point of view, it makes sense to say, how are we going to deport, whether it be 2 million or 3 million, how are we going to find them; they are here. Let's deal with the problem.

If you are going to pass this legislation, whether we agree with it or not—we are going to put in enforcement—let's sort of try to curtail it for the future, and deal with what is here now. These people are here. So, you know, you have to look——

Mr. SHELBY. But you have to concede that they are here illegally. I am not denying they are here. They are here. We don't know how many millions are here. I have empathy for them. I don't want to hurt anyone. I don't want to deny health care benefits for anyone that needs it in the country. But we do have and have had legal avenues of immigration—I am saying to you it hasn't worked. Otherwise, we wouldn't have the massive problems that we have with immigration. But nevertheless, we did have legal immigration policies. They were not followed.

Getting back to the amnesty, it bothers me as a Member of Congress to grant the amnesty. It bothers a lot of people in this country. And I think that is one of the real controversies, is whether or not we are going to make them legal in a sense; you know, set up the mechanism to let them stay in the country. And I am not talking about Mexican Americans. I am not talking about Latin Americans that have come in here. It wouldn't matter to me if they came from England, or Germany, or what. I still have to say to you that the breaking of the law bothers me.

Thank you.

Mr. TORRES. Mr. Shelby, if I may respond, just to add some points.

I think the issue that you raise is an issue that is a major stumbling block for everyone.

Mr. SHELBY. Sure.

Mr. TORRES. However, I think it is important to consider, I think, the point made that it is not an amnesty program. There are very clear criteria to be met. And I think the comment you made——

Mr. SHELBY. You say it is not an amnesty program. But that is what they call it. That is what we were talking about when the bill was up on the floor of the House last fall, and "amnesty" was the word used.

Mr. TORRES. The section in the bill indicates very clearly legalization. I think it was for that reason, as Congressman Lundgren indicated, it is one that is based on the individual being able to meet very clear and specific criteria in order to qualify. And I think an amnesty is much clearer just across the board, regardless of what you have done, you are in.

In the legalization, it does have very clear standards one must meet in order to be able to get into a position. Then this situation—they have to be in that position 3 or 4 years in order to get their legal status.

Mr. SCHEUER. Will my colleague yield?

Mr. SHELBY. I yield.

Mr. SCHEUER. Mr. Torres, you are a man of the world. You have had some hands-on real-life experience out there.

Isn't it commonly accepted that for a matter of anywhere from $50 to $200 you can buy a full set of forged documents, proof that you came over here on the Mayflower? Therefore, all these distinctions about when you came over and on which date you came over in the last few years to qualify for what kind of status are a pitiful

joke. Not only can any one of your existing 2.1 million illegal immigrants, or undocumented aliens, however you wish to describe them, qualify, but aren't you raising the hopes—considering the realities of the widespread availability of these forged documents, and the reality of a border which Senator Simpson has described as out of control, a border that is totally porous—aren't you creating the reality that a million or 5 million or 10 million or however many million from Latin America and from abroad will be pulled to the United States by the erroneous assumption that we have an infinite capacity to absorb these immigrants? We are picking up illegal aliens, illegal immigrants in Texas, in the Southwest from England, from Ireland, from Italy, from Scandinavia.

They are not all Hispanics. They are certainly not all Mexicans; 60 percent of them are from south of the Mexican border, including many Europeans.

Are you not creating through these conditions the free availability of forged documents that will prove that you have complied with whatever law we have set up, and a totally porous border—aren't you creating an almost statistically proven likelihood we will get an explosion of people crashing through that border, many of them transiting Mexico, by the millions over a period of time, especially as these labor market forces and growing unemployment in Mexico and elsewhere in Latin America create larger and larger and larger push factors?

Mr. TORRES. I think that you raise very good questions. I will respond to them directly as I think you like most witnesses to.

I think your point about the forgeability of documents is a very good point and has been raised in testimony in the past. But I think that those are factors that have been considered by the chairman of the subcommittee, Mr. Mazzoli.

Those are factors that have been considered by the Judiciary Committee. And they have been as I understand it, incorporated in the operational plans of the INS, in dealing with rules and regulations of what type of document would be used, what type of scrutiny would be passed over in order to have a person legitimately indicate that they were in the country on such and such a date. But it is also important to understand the way the legalization program operates. It is not simply the date that will allow you to qualify for the program. You also have to prove that you will not be a public charge. And in that regard, you are stating that if a person has been on public assistance while they have been in this country, that may just work against the person who wants to legalize their status. They may not be able to legalize their status.

If a person who is in the country, and at least can show they have been in the country on that date shows also they cannot be gainfully employed and take care of themselves, they will not qualify for the legalization program.

There is also another provision that indicates that you would have to be physically present in the country the day the bill passes. And the burden of proof is on you in order to prove that you were in the country. So there are other factors that go into the consideration of a person qualifying for the legalization program outside of simply the fact of the data that is there.

The other factor that is part of the consideration I present to you from a Hispanic perspective, and from an undocumented perspective.

The restrictions that you have of the 5 years on virtually every federally funded program, at the present time does serve as a major obstacle to an undocumented person who is considering legalizing their status. At the present time, the study I indicated to you shows that most, at least in this case, let's take Mexicans, have been in the country between 5 and 7 years on the average, clearly more than 5 years. In that time, they have probably been able to establish clear equities—maybe they own a home. I know many undocumented who own homes, send their kids to school, and own property.

These people are for the most part, functioning members of their local community. Most people don't even distinguish them or identify them as undocumented. If the restrictions stay in place, the undocumented are giving up the opportunity to receive public health services that they now are receiving, and a number of other services they are receiving. But at the same time, they are paying for, because they are paying their taxes. So that is another obstacle that the undocumented is considering when they are looking at the possibility of legalizing their status.

INS also indicates they anticipate only 30 to 35 percent of the 6 million figure that they identified and originally have estimated would participate and qualify for the legalization program. So we are not talking about millions of people. We really are not looking at the considerations and the positions that this administration, through the INS, have made in developing and designing the program on a very detailed basis. And I don't think we are really confronted with the situation, we are going to have a tremendous avalanche of millions of undocumented people wanting to legalize their status.

I think the points you raise are good points to be discussed as I hope we have just done. But I don't think that realistically we are looking at a program in which we are going to have even 2 million undocumented people wanting to come forward.

Mr. SHELBY. If I could make one more observation perhaps and a question, too.

Are any of you on the panel advocating that this proposed piece of legislation is going to be the panacea for our immigration problems?

Mr. TORRES. My opening statement was the contrary.

Mr. SHELBY. That is right. Let's assume this bill passes near its present form, all that deals with, or tries to deal with, is what we have in the country today. You contend, let's assume, 35 percent, 40 percent of the illegal aliens come forward to meet the criteria to become citizens of this country down the road. Still, aren't we going to continue to have the poorest borrowers? Aren't we going to have the problems coming out of Latin America? And you are going to see another surge of illegal immigration in this country like you have never seen, especially in the Southwest and the West.

Mr. TORRES. I think you raise precisely the reason why in your opinion there must be much more accompanying a bill of this type

than what is at the present time. But it is also important to indicate and to add that precisely for the reason that you indicate, that there may be 30 to 35 percent that may qualify, and then we will have another surge coming in, that is the reason we must make the legalization program the best possible program that we can, and that we can try to bring as many of the existing undocumented people who could qualify and who are in the country, more importantly, to bring them forward and legalize their status. Because if we do not, then we are running into the problems that Mr. Finn and Mr. Gaenzel have indicated.

We are running the problems of presenting serious threats to the public health of American society.

Mr. SHELBY. So this bill basically is flawed in your opinion, isn't it?

Mr. TORRES. Basically in every section.

Mr. SHELBY. Thank you.

Mr. TORRES. I hope you can convince other Members, the majority.

Mr. WAXMAN. I know the legislation contains many controversial provisions. But our purpose in this hearing is to look at those provisions that relate to health care.

I have very serious problems, I might point out, with the legislation in other respects. But I want to restrict myself to the issues within our jurisdiction.

I feel strongly if the Federal Government allows people to come into this country illegally, it has an obligation to share in the costs that other levels of government incur in providing essential health and related services to this population. The worse possible response to the problems posed by large undocumented population is for the Federal Government to deny any responsibility for those services.

Now, this bill, H.R. 1510, speaks to the Federal Government's responsibility. It establishes a State legalization assistance fund, and it proposes to reimburse States and localities for the cost of providing public health and medical services to the newly legalized aliens. But it restricts medicaid coverage for these newly legalized aliens to certain limited cases. Most have a 5-year waiting period.

Now, my question to Miss Hernandez is, let's assume that we had this 5-year delay in medicaid eligibility, without any exceptions. What would the impact be during that 5-year period? What services would be available if you become ill? Where would people turn for services?

Ms. HERNANDEZ. I will speak from my experience and knowledge of Los Angeles County, because I come from Los Angeles County and I am most familiar with it. Most of these individuals would go unserved. Right now, Los Angeles County is suffering from financial restraints. What is happening is that the availability of public health care to undocumented and other individuals is being curtailed. And I think that that is bad public policy.

Now, you raised the question of Federal Government and its responsibilities. And it is interesting to note that there was a study in Los Angeles County on the cost, on the benefits, on the contributions of the undocumented. And the problem is not one of nonpayment or noncontribution. The problem is one of distribution. Think of the taxes they paid—and they estimated the undocumenteds in

Los Angeles County paid over $2.35 billion in taxes. The problem was that 58 percent went to the Federal Government and 33 percent went to the State. And so what is happening is that the moneys, the taxes, are going to other governmental entities, and not to the local entities that are having to face whatever burden comes from it. And we very much support the proposition that the locality should provide these benefits, and that the Federal Government should reimburse for these benefits.

We don't agree with what has been happening in Los Angeles County as far as the curtailment of health benefits. It is an understanding situation as to what the local problems are.

Mr. WAXMAN. So we have two reasons the Federal Government ought to be involved. One is Federal immigration policy that is permitting large numbers of undocumented aliens to come into various parts of our country. And second, when these people are here, they are paying taxes to the Federal Government. It is not as if they are here in this country going on welfare, receiving benefits. They are not getting those benefits for the most part, but they are paying taxes which are used to provide benefits for other people who may or may not need those benefits, but they themselves are denied it.

Dr. Finn, in Los Angeles, we have had severe cutbacks on the amount of money the county has been prepared to pay for services for the undocumented aliens. Are we running a risk of infectious diseases getting out of control because we are not treating them? Are we running a risk that by denying a woman prenatal care, her child, who will be a U.S. citizen, may have health problems we will end up paying for for the rest of that child's life?

Dr. FINN. Well, Chairman Waxman, to this time, infectious disease processes and the preventive treatment for them have been maintained. It is in the area of prenatal care and child health where the county has been forced to begin a payment system. This is a system based itself on the individuals applying for medical or for them operating to pay $20 or $30 up front for their services. Philosophically and medically, certainly I support the philosophy, these are services in the best interests of the total community and should be available. Unfortunately, as Miss Hernandez said, local government has had a restriction on its ability to raise taxes for these purposes. But the county, as long as there would be a provision for reimbursement, would heavily support offering all of these most important services.

Mr. WAXMAN. Thanks to Congressman Don Edwards, an amendment was added in the House Judiciary Committee to reimburse States and localities for 100 percent of their costs of providing health care to the newly legalized population, subject to amounts appropriated in advance. We are looking at that provision in this subcommittee, because it is within our jurisdiction. Would you support keeping that Edwards amendment in the bill?

Dr. FINN. May I add one other thing? You were not here earlier. The early period, the 5 years which I guess is a restriction, at least at this time, I pointed out in my testimony that that is probably the most important tie in terms of health care for an undocumented alien. And so——

Mr. WAXMAN. Why is that?

Dr. FINN. If they have come from a country where certain disease is endemic, they, for the first 5 years or so in this country, tend to break down in these processes as they would if they had remained in that country.

Mr. WAXMAN. So you think the 5-year waiting period is counterproductive?

Dr. FINN. That is true.

Ms. HERNANDEZ. May I add something on your question? You asked for Los Angeles County. In our testimony, we cite that in 1981, Los Angeles County, for the first time in 50 years, eliminated programs of health to undocumented. As a consequence, what has been happening is that we have experienced a 25-21 percent drop in prenatal visits to health clinics. And there has been a cancellation rate of 30 to 50 percent. And the premature rate has increased 7.4 percent. And this is just in the last year and a half. And once again, we are dealing with prenatal, with children, with pregnancy, with well baby care—the services that are most essential and needed as far as the development of an individual.

Mr. WAXMAN. Thank you. That is a very good point. Let me thank each of you for your participation in this hearing today. We will review the testimony with our colleagues and see what sense we can make of the bill as it has now come to us, and what recommendations we ought to make to the House and the rest of the Congress.

Our second panel this morning represents the cities which have shouldered the responsibility for providing health services to the undocumented worker and his family.

Our next witnesses have been asked to comment on the implications of H.R. 1510 on States and localities. We have Ann Klinger, supervisor, second district, Merced County Board of Supervisors, and National Association of Counties; and James A. Krauskopf, administrator/commissioner, Human Resources Administration, city of New York.

We have your prepared statements. If you would summarize your remarks.

STATEMENTS OF ANN KLINGER, SUPERVISOR, SECOND DISTRICT, MERCED COUNTY (CALIF.) BOARD OF SUPERVISORS, ALSO ON BEHALF OF NATIONAL ASSOCIATION OF COUNTIES; AND JAMES A. KRAUSKOPF, COMMISSIONER OF HUMAN RESOURCES ADMINISTRATION, NEW YORK CITY AND ALSO ON BEHALF OF U.S. CONFERENCE OF MAYORS

Ms. KLINGER. Thank you, Mr. Chairman.

Mr. Chairman, honored members of the subcommittee, I am Ann Klinger, supervisor, Merced County Board of Supervisors, Merced County, Calif.

County governments across the Nation will be directly affected in numerous ways by the immigration reform and Control Act of 1983, H.R. 1510. The major impact on counties will come from health care costs, so we appreciate the subcommittee's consideration of this aspect of the legislation.

Counties often are responsible for providing health, welfare, and social services to persons residing within their boundaries, regard-

less of legal status. Therefore, Federal immigration policies will have a direct cost impact on counties where concentrations of legalization occur.

NACO supports reform of the Nation's immigration policies. We believe it is essential that the Federal Government, which has sole authority for admission policies and the security of the borders, be able to control illegal immigration. As a necessary step toward gaining that control, we support the orderly transition of millions of illegal aliens within our borders to permanent legal resident status.

Our support for the legalization program is contingent upon reimbursement to States and counties for the costs arising from the legalization, as well as strong enforcement measures. H.R. 1510 in our opinion meets these criteria.

Our primary concern is that the full reimbursement provision known as the Edwards amendment be retained as the proposed legislation proceeds through the House of Representatives and through conference with Senate bill 529, which provides only a limited block grant for reimbursement. It is our strong position that the Federal Government should bear the costs of the federally created legalization program, and that local governments should be protected against the potential for increased costs of health and welfare, provided to legalized aliens.

The Edwards provision in H.R. 1510 would provide full Federal reimbursement to States and counties for these costs. The Senate block grant does not assure counties that the Federal Government will be fully responsible for, or even share equally, in any costs that arise from the legalization of millions of persons.

Reimbursement of health care costs is especially important because both H.R. 1510 and S. 529 prohibit legalized aliens from receiving medicaid or welfare benefits. In H.R. 1510, illegal aliens granted permanent resident alien status would be ineligible for 5 years for all Federal benefits, except for aid required because of age, blindness, disability, or medical conditions that require treatment in the interest of public health or because of serious injury or illness.

The bill is vague as to how these conditions would be exempted from the ban on Federal eligibility, raising questions of administrative complexity and what kind of criteria would distinguish "serious" illness or injury from those otherwise not eligible for Federal assistance. Clarification is needed as to the intent of the bill to make exception for aged, blind, and disabled persons to receive SSI, which implies that medicaid would also be available to this group of legalized aliens.

Although both bills would authorize States and local governments to also deny assistance to legalized aliens, we believe this would be ineffective as an attempt to avoid health care costs. We believe it is unlikely that the courts would uphold the right of local governments to deny health care to legalized aliens that is otherwise available to needy persons legally resident within the United States.

Further, the concept of county hospitals and health facilities as providers of last resort insures that at least a minimal level of care is available for persons unable to pay the cost.

While most illegal aliens are employed, many work at minimum wages or other jobs that do not offer adequate health care protection, nor a hedge against destitution when unemployment strikes. For these reasons, I think it is likely that a good number of legalized residents will experience unemployment and need for public assistance and health care. These costs, without full Federal reimbursement, would fall disproportionately on the relatively few local governments that have large numbers of illegal immigrants and a mandated or traditional responsibility to provide for the indigent.

In short, we are skeptical that placing a ban on health care eligibility would keep costs down, because removing the fear of detection and deportation will enable needy immigrants to make use of needed health services which they currently postpone or do without, and because humanitarian reasons preclude denying of certain health care.

Counties that are now providing care to indigent aliens believe that the demand will increase substantially once the fear of deportation is removed, and the emergency nature of care provided would broaden to include treatment earlier and of less serious nature.

Among the counties currently incurring substantial health care costs for aliens is Los Angeles, from which you have a separate statement today. For the current fiscal year, Los Angeles County will spend an estimated $99.5 million for health care services to illegal aliens. A study by David North of the Transcentury Foundation last fall projected that the effects of legalization would add $20 million in health care costs.

Alameda County, Calif., spent $1.2 million in fiscal year 1982–83 on health care for illegal aliens. Bexar County, Texas, spends $1 million, per year, mostly for emergency care arising from serious injury. Merced County, Calif., in the heart of the migrant stream, provides general health care through its comprehensive medical center, taking medicaid applications for patients who can't pay and asking INS to verify legal status after the fact.

The 7 percent of the inpatient load and 8 percent of the outpatient case load are found to be illegal aliens, amounting to $2.3 million in bad debts for this fiscal year. These bad debts account for half the hospital's total bad debts. During this fiscal year, 563 illegals have been admitted, at an average cost per stay of $3,736. Of approximately 3,000 babies delivered in the Merced Medical Center, during 1982, 17 percent have both parents born in Mexico.

The neighboring county of Fresno, an even larger migrant agricultural center, estimates that roughly 3 percent of their county hospital budget goes to care of aliens who acknowledge their illegal status, an annual expenditure of $2.1 million in county tax funds for uncollectable debts. An additional $680,000 is spent in outpatient care for this group.

The Harris County, Texas hospital district admits only absolute emergency patients if they can't provide evidence of ability to pay, yet spends $2 million to $2.5 million annually for unreimbursed care to aliens. The county believes that under legalization, people would seek care earlier, thus reducing the per patient cost, but that additional aliens would seek care who are now afraid to come

forward because of the screening that could result in INS proceedings.

Not all health care for illegal immigrants is arising from Mexican nationals. Nashville-Davidson County, Tenn., estimates that as much as 1 to 1½ percent of the State's population are illegal, due to large numbers of foreigners who overstay their student or visitor visas, as well as from illegal entry. Informal surveys by the county manager's office confirm the high incidence of overstayed visas among the uncollectable health care debts.

Besides several hundred babies born each year to these groups, the county incurs substantial costs in their hospital and health clinics for severe medical problems of undocumented persons, including a 93-year-old Canadian national who resided illegally in the United States for 40 years before severe illness placed her on the county rolls.

Dade County, Fla., is bearing considerable costs for improperly documented aliens in their Jackson Memorial Hospital, beyond $14 million in Federal funds that were provided for Cuban/Haitian entrants. The Cuban/Haitian impact assistance was exhausted by April 30, but the public health trust continues to incur health care costs for this group at the rate of $1.5 million each month.

Other costs are being incurred for Cubans and Haitians who are improperly documented, and thus did not qualify for the Federal impact assistance. As an example of other alien groups for which no Federal or State reimbursement is available, Dade County's Public Health Trust is absorbing costs for Nicaraguans. For the 10-month period between June 1, 1982 and April 30, 1983, Dade County's health costs were $936,384 for 2,294 Nicaraguan patients.

In the 2½ year period ending May 31, 1982, 3,782 Nicaraguan patients were treated at a cost of $2 million. These figures also are primarily for emergency care, since undocumented aliens are not eligible for clinic care except as follow-up to in-patient care.

These examples illustrate the involvement of county governments in health care for aliens prior to the proposed legalization of several million aliens. I believe it is self-evident that the costs will increase significantly under the legalization program. In the cases I described, the costs are borne mainly by the county government, primarily out of property taxes. Clearly, these burdens are the result of Federal policies.

Finally, we are concerned about the potential for the H-2 temporary worker program and the new agricultural worker program established in H.R. 1510 to generate health care costs for counties. An amendment to require that foreign workers have health insurance paid by the worker and/or employer would protect local public health facilities from the costs of providing care to foreign workers admitted to the United States under these programs.

In summary, the Federal Government, which is responsible for determining and implementing national immigration policies, should also be responsible for the cost of such policies. Otherwise, it is all too easy for the Federal Government to overlook the fiscal impact of immigration on other levels of government.

We do believe there is a need for data collection. We think that we need to keep track of the direct and indirect cost of both State and local governments that are incurred as a result of the legaliza-

tion process, and we look forward to working with you on that if this legislation becomes law.

Thank you for the opportunity to present our concerns to you.

Mr. SCHEUER. Thank you very much.

Now we will hear from James Krauskopf, Commissioner of the Human Resources Administration of New York City.

STATEMENT OF JAMES A. KRAUSKOPF

Mr. KRAUSKOPF. Thank you, Mr. Scheuer. I appreciate the opportunity to appear. I should note that I am presenting a position on behalf of the U.S. Conference of Mayors as well as New York City.

I am focusing on the Immigration Reform and Control Act of 1983, particularly on the provisions that relate to the cost of providing what we estimate to be the welfare and health costs under the legalization program.

You have a copy of my prepared statement. As you requested earlier, I will try to summarize the highlights of the testimony.

New York City, as you well know, has long been a place that welcomes newcomers and immigrants, and has also been a place to which undocumented aliens have come. We estimate that there may be anywhere from 500,000 to 750,000 undocumented aliens in the city.

Under the legalization program of H.R. 1510 there would be a permanent residency status established for undocumented aliens who can prove that they entered this country prior to January 1, 1982, and they have resided continuously in the United States since that date. We think the provisions of the legislation are humanitarian and realistic. It would allow persons to live more securely in their communities and to continue the kind of positive contributions that I think the majority of them have made in paying taxes and adding to the cultural diversity of New York City and other cities.

We believe that an adequate method for reimbursement of potential costs which local and State governments might incur should be included under that legalization program. There must be a mechanism for providing States and localities with Federal assistance for the actual costs incurred. That burden cannot rest entirely on State and local governments. The provisions of both the House and Senate bills, in different ways, prohibit legalized persons from eligibility for such programs as aid to families with dependent children, medicaid, food stamps, and the like. But in many of the cities and States around the country, those people would be eligible under provisions of State constitutions for assistance. The State constitution of New York, for example, provides for the care of the needy. Under the home relief program, our general assistance program, we provide for the public assistance costs of legalized people. We also have a medicaid program for persons who are not eligible for the Federal program. Those costs in New York are borne entirely by State and local governments on a shared 50–50 basis. Therefore, we strongly urge that the provision of H.R. 1510, which provides for 100 percent Federal reimbursement for medical and public assistance costs for 5 years, be enacted. We recognize that it is sub-

ject to annual appropriations, but we think that the provision of 100 percent Federal reimbursement is essential.

We are also pleased to see that there is Federal aid provided in H.R. 1510 for persons who are aged, blind, or disabled, and that medical assistance would be provided where it was in the interest of public health or where there is serious injury. We also are supportive of the provisions for educating legalized aliens. Therefore we disagree with the provisions in the Senate bill which would have impact assistance based on a block grant and subject to a formula which is not fully determined. For example, it is unclear whether the Senate formula would take into account secondary migration, or if it would account for differences in costs of living among different municipalities or differences in dependency rates or assistance levels. As a result we much prefer the House provisions on reimbursement.

I also want to note that we are not looking at this legislation in a vacuum. It comes at a time when there already have been serious reductions in existing Federal programs that provide social services, cash assistance, medical assistance, and so forth, to the general population. In New York City we lost more than $800 million in Federal funds in city fiscal years 1982 and 1983 as a result of the Federal cutbacks that have already been enacted. Without Federal assistance we cannot afford to provide for these additional costs that would come from legalization.

It is difficult to make definitive projections of what the welfare, health, and related costs would be of the legalization program. We know that many people come primarily to get jobs, succeed in holding jobs, and do not become a public burden. We also know that these people, like legalized residents, are subject to changes in economic conditions, to structural changes in the economy, and to the kinds of high unemployment rates that we have now. Therefore, while people may come looking for jobs and may succeed in being employed, they may be subject to unemployment and to periods in which they must rely on public assistance.

In calculating our potential costs, we do not estimate that there will be any greater use of public assistance by the legalized people than the general population. We have based our projections on the assumption that 70 percent of the undocumented aliens in the city will be being eligible for legalization, that approximately 75 percent of those eligible for legalization will come forward, and that about 12 or 13 percent, which is the percentage of people in the general population who are dependent on public assistance and medicaid programs, would use those programs.

Based on these assumptions, we arrived at an estimate of approximately $56 million in local costs that would be added as a result of the legalization program. It is that kind of cost, as my colleague from county government has stated, for which we in New York City and in other cities are looking for Federal reimbursement. Since the basic policies which led to these costs and to the people being here in the first place, were national policies initiated by the Federal Government, the Federal Government must assume responsibility for these costs.

I want to note particularly some aspects of the health care costs in New York City. We are providing health care now to undocu-

mented aliens through the city's Health and Hospitals Corp., which as you well know has 16 municipal hospitals throughout the city. We estimate that we spend about $16 million a year in health care for undocumented aliens who would expect to obtain legalized status under the legislation.

Like some of the people who testified in the first panel, we are concerned about the lack of prenatal care available to undocumented aliens. Mayor Koch has taken the initiative through the Health and Hospitals Corp., especially in Kings County Hospital in Brooklyn, which serves a large number of Haitians, some of them undocumented, to try to reach out to pregnant women in the Haitian community and encourage them to come in for care in the hospital. They have enrolled more than a thousand new Haitian patients in prenatal care since last year. But we also know that the costs are substantial in that program and that they are being borne entirely at the local level. Moreover, we know that there are many people who are not coming forward as a result of fears and other concerns related to their status.

We want to look especially for options and alternatives to costly hospitalization for this population. We want to see preventive care provided, and we also do not want to see people staying in hospitals longer than is necessary. Since undocumented aliens are not eligible for nursing homes, because these programs are financed under medicaid, many people will stay in hospitals longer than is necessary, and using beds that might be better used for people that have acute care needs, and increasing the costs.

Right now the Federal Government does not provide medical assistance eligibility for undocumented aliens. The city has recently joined in a lawsuit against the Federal and State governments in order to make certain undocumented aliens who have been known to the Immigration and Naturalization Service eligible for medicaid.

We can't predict the outcome of that suit, but we believe that the current laws and regulations are being interpreted in an overly restrictive manner by the Federal Government, which is denying medicaid eligibility to some undocumented aliens who are known to INS, and ought to be eligible for medical assistance. We also believe that these regulations are a violation of the rights of some aliens, particularly children and pregnant women, to equal protection under the laws.

In conclusion, we urge you to maintain the support that is provided in H.R. 1510 for the costs that State and local governments will incur under the legalization program and that you insure that there is adequate fiscal protection for State and local governments and for the costs of welfare and health benefits which we will be providing.

Thank you.

[Mr. Krauskopf's prepared statement follows:]

TESTIMONY OF

JAMES A. KRAUSKOPF, COMMISSIONER

HUMAN RESOURCES ADMINISTRATION

NEW YORK CITY

Mr. Chairman and members of the Subcommittee, I am Jack Krauskopf, Commissioner of the Human Resources Administration in New York City. I appreciate this opportunity to testify today on the impact of H.R.1510, "The Immigration Reform and Control Act of 1983" on state and local governments. I will focus specifically on the need for the federal government to provide financial assistance to states and localities to cover the costs associated with providing basic welfare and health benefits to newly legalized aliens.

New York City continues to play a special role in welcoming newcomers to this country and in assisting those in need. As home to over 600,000 immigrants, refugees, and Cuban and Haitian entrants, we have followed with great interest the proposed comprehensive change in our national immigration policies.

While the 1980 census shows a new mix of nationalities among New York's foreign born population, their needs are similar to those of previous immigrants — decent work opportunities, a better life for their families, and a haven from political or economic oppression. The undocumented alien population in the City, estimated at an additional 500,000 to 750,000, share many of these goals as well.

The legalization program contained in H.R. 1510 would grant permanent resident status to undocumented aliens who have continuously resided in the United States since January 1, 1982. It is both humanitarian and realistic. Newly legalized persons would be free to live securely within their communities, advance in their jobs, and make contributions to their communities with the same freedom that legalized immigrants had for years. Indeed, immigrants have had an invigorating effect on our local economic and cultural life: they fill difficult jobs; they revitalize neighborhoods by buying small businesses and

homes; they pay income and sales taxes; and they infuse our communities with cultural diversity.

Our principal concern with the proposed legislation is the potential costs that it could generate for states and localities. It is our strong belief that any major immigration reform must include a mechanism for providing states and localities with federal assistance for actual costs incurred due to legalization. The result of a new federal policy towards undocumented aliens must not be to shift the economic burden of legalization to states and localities.

Both the House and Senate versions of the bill preclude the newly legalized population from eligibility for federal assistance programs, including AFDC, Medicaid and Food Stamps. In the House version, the prohibition period would be five years. In the Senate version, the prohibition period for temporary residents would be six years, and for permanent residents, it would be three years. Yet, newly legalized persons who are not eligible for federal aid would be eligible for benefits funded by states and localities including public assistance, medical care and social services benefits.

The federal government, which sets immigration policy, must underwrite the state and local costs of providing basic services to this special population during their period of ineligibility for federal assistance programs. The House has explicitly recognized a federal fiscal responsibility to state and local governments which will provide services to newly legalized aliens. H.R.1510 provides for 100 percent federal reimbursement for the medical and public assistance costs of legalization for five years, subject to annual appropriations.

In addition, it allows federal aid for persons who are aged, blind or disabled and medical assistance required in the interest of public health or because of the seriousness of an illness or injury. The House bill also allows federal aid for the costs of educating legalized aliens. While the reimbursement mechanism in H.R. 1510 is not open-ended — since the appropriations process permits Congress to set a ceiling on funds available every year — it does guarantee affected localities a certain level of reimbursement based on actual costs.

The Senate approach to reimbursing states and localities for the costs of legalization is an impact assistance block grant for affected states. This approach does not contain the necessary assurances that reimbursement will be adequate to cover expenditures. The amount allocated to any individual state under S.529 will depend on a specific formula that has yet to be determined. The formula would take into account factors such as the number of legalized aliens in a state, the number of legalized aliens in a state compared to the State's total population, and the State's expected expenditures for the public assistance and health care needs of its legalized aliens.

However, no formula can accurately predict actual costs on a prospective basis. Too many unpredictable factors influence where legalized aliens reside and their varying needs for assistance. The formula is unlikely to accurately reflect the extent of secondary migration among the states. Moreover, it may fail to address the differences in the costs of living, welfare and Medicaid dependency rates, and assistance levels among the major impacted states and cities. Providing funds to states based on projected costs rather than actual costs could leave states and localities shouldering a substantial portion of

the costs of legalization. Therefore, we must oppose the block grant assistance approach and urge that you enact the reimbursement provision contained in the House bill.

In addition, the Senate version, unlike the House, does not provide federal funding for aged, blind or disabled persons or for health care provided to newly legalized aliens for public health reasons or because of a serious illness or injury.

The 100 percent federal reimbursement for the costs of legalization is crucial to cities around the country like New York, which have large concentrations of undocumented aliens. Some states, including New York, are required to provide basic assistance and services to its needy residents according to their respective state constitution and laws. Presently, the undocumented population has no legally established right to social welfare benefits. However, once they are granted legal status, our state constitution would guarantee this population the same benefits available to other residents. Thus, the proposed legislation would create a large pool of legalized persons barred from federal benefits for a period of three to six years, but eligible for state and local benefits during that time.

In addition, cities, counties and states have already been forced to absorb tremendous budget reductions in federal programs, particularly in those public assistance and social services programs legalized aliens might turn to in times of need. For example, in City fiscal years 1982 and 1983, New York City lost over $800 million in federal funds, including cutbacks in public assistance, CETA, Medicaid and the block grants. The loss in federal block grant funds this past year totaled $34 million, including approximately $18 million from

the Social Services Block Grant, $9 million from the Education Block Grant and $5 million from the Community Services Block Grant.

It is impossible to furnish definitive projections of New York City's costs if a legalization program were implemented. We do know that undocumented aliens often come to this country deliberately seeking to improve their economic status and many currently hold jobs. They are undeniably hard working, highly motivated individuals; however, most work in unskilled and semi-skilled jobs, which are extremely sensitive to the structural and cyclical changes of the economy.

Our estimate of the potential cost of the legislation assumes that most, but not all, of the undocumented aliens in New York City who are eligible for legalization will come forward, and that some portion of these would need government assistance sometime in the future. Specifically, we assumed a 12 percent dependency rate for AFDC and General Assistance and 13 percent for Medicaid. These rates are the same as the dependency rates of the general population in New York City and are significantly lower than refugee-related dependency rates.

Based on these assumptions and the provisions of the House bill granting legal status, we estimate a potential cost for New York City of $56 million. Even if the dependency rates of newly legalized aliens are half of our estimate, the legislation could still cost New York City $28 million, which is still a considerable expenditure for a local government to bear alone. Like many cities and states around the country, we have no cushion in our local budget to absorb these added assistance expenditures.

Federal reimbursement for medical care is critical. Even newly legalized aliens who are employed are vulnerable to high medical expenses and they may or may not be covered by health insurance provided through their employer. It is important that employable persons receive adequate health care so that they can maintain their economic self-sufficiency.

The benefits that would be available to newly legalized persons in New York City include General Assistance, Medicaid, social services, vocational training, day care and other programs. General assistance and medical costs are expected to be the largest portion of the state and local costs.

Currently, the City is providing health care to employable and dependent undocumented aliens through the City's Health and Hospitals Corporation ("HHC") — a network of 16 hospitals — the largest municipal hospital system in the world. Federal assistance for the local costs of legalization will result in significant savings to the City because currently the municipal hospital system is spending $16 million on health care for undocumented aliens who we expect to obtain legal status.

I would like to share with you some medical problems we have identified among undocumentd aliens by the City's municipal hospitals.

One critical health need faced by undocumented aliens is prenatal care. We estimate that more than half of the undocumented aliens currently receiving care in the City's municipal hospitals are pregnant women. Because of the priority placed on prenatal services by Mayor Koch and New York's health and

social services agencies, the Health and Hospitals Corporation began a special outreach program for pregnant women in Brooklyn's Haitian community at Kings County Hospital. This special effort helped enroll more than 1,000 new Haitian patients in the prenatal clinic last year. About 65 percent of these patients are not eligible for Medicaid because of their immigration status. The cost of providing them prenatal care totaled over $463,000 to the City. In addition, the cost of inpatient care for the mothers and their children — who are newborn American citizens — came close to $1 million.

I can document numerous other examples of essential health care that we are currently providing to undocumented aliens, many of whom will be eligible for legalization but possibly excluded from federal Medicaid coverage for a number of years. Undocumented aliens with total renal failure are treated exclusively by the City's municipal hospitals at a cost of $500 a week for each individual. One undocumented alien who has been an inpatient on dialysis at Lincoln Hospital in the Bronx for the past year has run up a bill of $169,000. Eighteen undocumented aliens have been reciving dialysis treatments on an outpatient basis at Kings County Hospital in Brooklyn at a cost of more then $111,000. When one of these patients had to be hospitalized for four months, the unpaid bill came to $55,000. Although we continue to provide treatment and life saving care for these individuals, we do not believe it is equitable for localities to be forced to pick up the full expense of serving these cases.

Another problem for localities is the lack of alternatives to costly hospitalization for the undocumented population. For example, Bellevue Hospital in Manhattan currently has seven inpatients who are undocumented aliens. Six of the seven, who are no longer in need of acute care but require some level of nursing services, remain in acute care beds because they have no

23-094 0 - 83 - 13

families who can care for them. Since they are not eligible for Medicaid, they cannot be placed in nursing homes and cannot receive Medicaid-funded home care. Therefore, these six patients must remain in expensive and inappropriate hospital beds at a local cost of over $1.25 million to date.

There is one additional problem I would like to bring to the attention of this Committee which will not be remedied entirely by this bill. Currently, the federal government refuses to permit Medicaid eligibility for undocumented aliens. With legalization the federal government will assume a greater share of the costs of providing health care to those undocumented aliens who become legalized, but those who remain undocumented will continue to be barred from federal benefits.

In an effort to reverse this federal policy of excluding undocumented aliens from Medicaid eligibility, the City has joined in a lawsuit against both the federal and state governments to make undocumented aliens known to the Immigration and Naturalization Service in need of medical care eligible for Medicaid. Because it allows these undocumented aliens to remain in this country, the federal government has an obligation to see they receive the full protection of this nation's laws. We believe that HHS has arbitrarily excluded undocumented aliens whom Congress intended to be included in the Medicaid program through an overly restrictive interpretation of those regulations governing aliens' eligibility for Medicaid. In the lawsuit, the City also alleges that these regulation violate the rights of certain aliens, particularly children and pregnant women, to equal protection of the laws.

In conclusion, we support the efforts of the Congress to grant legal status to undocumented aliens who have established roots in this country. As a result of our experience in New York City, we strongly urge the adoption of the House provision for federal reimbursement of actual state and local costs resulting from legalization, including the cost of caring for the elderly, blind and disabled and those who are seriously sick or injured. We urge you to reject any efforts to substitute the block grant approach contained in the Senate bill. State and local governments need the fiscal protection provided by H.R.1510, and we hope this view will prevail.

Mr. SCHEUER. Thank you very much, both of you, for your very illuminating testimony. I don't have any questions.

I do react to the testimony that I have heard this morning in a couple of ways. First, I am totally in agreement with you that this is a Federal problem and it has to be faced up to by the Federal Government, and the costs must be absorbed by the Federal Government.

Dade County, Fla., Los Angeles County, Calif., and Manhattan County, N.Y., are playing the traditional roles that America has played in being a haven for people who are looking to improve their way of life, but the costs of this are becoming astronomical and people are opting to come to America, not to Dade County or to Manhattan.

I have to footnote that, because I visited refugee camps all over Asia. Generally, there are two places they say they want to go to, America and California.

So maybe Los Angeles should stand in a different status than the rest of the country, because people really want to go to Los Angeles.

I say that kiddingly for all the Congressmen from California. This is a Federal problem.

Second, I don't see how any rational person could want to leave the health care needs, especially the needs of future American citizens, prenatal and postnatal, health care needs unmet for 5 years during the most important formative days, and months, and years, of their lives at untold additional costs.

I mean you can put a multiplier of several zeros on there when you think of the cost of denying an unborn child the benefit of adequate nutrition and adequate prenatal care, the cost in mental retardation, and in physical deformity, and all kinds of costs that may cause that child to be institutionalized for a lifetime. Those costs go off the chart and off the wall.

How we could conceive of denying those children health care for 5 years, those prenatal embryos, and the born children, surpasseth my understanding.

So when they are here, they are here, and they are, as several of the witnesses said, part of the problems of a larger society and their health reflects on society.

I see no way at all, assuming the bill passed in substantially its present form, as a practical matter, how we could write off their health needs for 5 years and say, come back and see us in 5 years and we will see about your health needs.

This is mindboggling.

Mr. Krauskopf, you mentioned that the amnesty provisions were compassionate and realistic. They may be compassionate, but not realistic.

I am not sure we have cranked into the computer the effects of the legalization, amnesty, however you wish to describe it, of stimulating an explosion of further illegal immigration from all over the developing world, not just across the Mexican border, but across the Canadian border.

We are getting a large increase in illegal immigrants coming across the Canadian border in trucks for the first time. We must be thinking about the predictable increase in labor markets in the de-

veloping world, the deficit of 650 million jobs by the end of the century in the developing world, just to keep even with where they are now as I indicated before, and what impact that is going to have on accelerating the push factors that send people here.

In view of the fact that they can acquire the forged documents that will prove that they were here on whatever date and in view of the poor condition of our borders, I think we really don't have a very well thought-through estimate of what these costs are.

I think if we knew what the costs were going to be, we might want to think through some of the underlying assumptions of this bill. I hope we wouldn't want to think through whether or not we were going to provide health services for the undocumented aliens or illegal immigrants, however you wish to characterize them, who are already here, including the unborn children.

To my mind, that is a monstrous conception. However, we might play with the thought in terms of saving the taxpayers dollars.

In the end, the American people are not going to deny pregnant women and their unborn children the minimum quintessential elements of prenatal and postnatal health care.

We aren't that kind of people and thank God for that. I am sure our taxpayers will absorb the costs of giving people in our country, no matter what their label, the people that are here and are going to be giving birth and parenting American citizens, we are going to provide traditional health care to those people knowing that they are parenting future American citizens.

Some of the other implications will bear some other thought. Thank you, Mr. Chairman.

Ms. KLINGER. If I could add to the comment about the Southeast Asians and the fact that in the refugee camps they told you they wanted to move to California and America, many of them are, in fact, unplanned secondary migrations, just that, moving to California.

In my county we have 146,000 population now; 13 percent of the city of Merced and 5 percent of the county population is now Southeast Asian refugees who have arrived in unplanned secondary migration after their initial settlement in as many as two, three, or four places. I concur.

We are also dealing with those problems as well as looking forward to attempting to deal with the new set of problems that this legislation may or may not produce for us.

Mr. SCHEUER. I have a fairly large number of Southeast Asians in my congressional district. In Flushing, we have the largest concentration of Asians in the country.

We have more Chinese in my district than there are in Chinatown. They have all come in the last few years.

We had in our district 5 out of the 41 Westinghouse scholarship winners. One of the children was of Jewish-American origins, one was of Italian-American origins, and three of them were new Asian immigrants.

This is a population group that is going to make spectacular contributions to our society.

Mr. KRAUSKOPF. It is just for that reason—the potential for secondary migration to occur—that we are concerned about the Senate provisions of the bill. The bill as a formula doesn't seem to

recognize this issue and would provide a block grant that might not take into account that kind of secondary migration.

So we much prefer the provisions of H.R. 1510, which have the 100-percent reimbursement that would take care of that problem.

Mr. WAXMAN. Thank you very much for your testimony and for being with us.

We would like to next hear from Anthony Pellechio, Deputy Assistant Secretary, Income Security Policy, Office of Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, who will discuss the implications of health-related provisions of H.R. 1510 for the Federal Government.

We will make your prepared statement part of the record in full. We would like to ask you to please summarize that statement so that we could have a full opportunity for questions and answers.

We would like to recommend a summary of around 5 minutes.

STATEMENT OF ANTHONY J. PELLECHIO, DEPUTY ASSISTANT SECRETARY FOR INCOME SECURITY POLICY, OFFICE OF ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. PELLECHIO. Fortunately I prepared a brief statement, and I will try to make it in 5 minutes, as you say. I want to thank you for the opportunity to speak to you today about the cost estimates that the Department has prepared for H.R. 1510.

We applaud your efforts in guiding this legislation and the administration strongly supports the enactment of a balanced and fair immigration bill.

I feel it is important for me as a representative from the Department of Health and Human Services to point out that the Department of Justice is the lead agency on immigration reform.

I am here to talk about cost estimates for H.R. 1510. I would like to give you a brief summary and allow us enough time to answer your questions of concern.

I know you are familiar with the bill so I will highlight the Department's analysis of its costs. The Department has great concerns about allowances for special cash and military assistance for the estimated 2.9 million aliens that would be legalized under this bill.

We estimate that the total Federal cost for public assistance under the bill would be about $676 million for fiscal year 1984; $1.5 billion for fiscal year 1985; $1.8 billion for fiscal year 1986; $2.1 billion for fiscal year 1987; and $862 million in fiscal year 1988.

Of this $6.9 billion total, $2.8 billion would be used for medicaid benefits to legalized aliens. It is important to emphasize that these costs are not included in the President's budget for fiscal year 1984 or future years.

On the last two pages of my written testimony, there are tables that break out costs by programs and fiscal years. The first table assumes that special 100 percent Federal reimbursement of State and local aid will not be in order in fiscal year 1988.

The second table assumes that it will. Last year's committee report indicated that the reimbursement provisions were intended to be in place during the entire time that legalized aliens were ex-

cluded from regular Federal benefits, thus the reason for the second table.

An important factor in our calculations is the rate at which illegal aliens eligible for amnesty will participate in the amnesty program. We believe the participation rate will be higher in the United States than in other countries because the new employer sanctions will provide an incentive for aliens to participate.

We also expect amnesty participation to be higher because of the activity of community organizations in this country which have direct contact with the extensive and longstanding illegal alien social network.

Another important factor in our estimates is how newly legalized aliens will use the public assistance made available to them by the bill. Our estimates assume that as aliens become eligible for particular types of welfare assistance, the rate at which they participate initially will be lower than that in the total U.S. population, but will build up to rates for the population as a whole controlling for age and income characteristics.

An important concern of the Department is the potential budgetary impact of provisions in section 303 of the immigration bill which authorizes full 100 percent Federal reimbursement of State and local assistance.

We believe these provisions are open ended, would not allow for adequate cost control at the Federal level, and would not provide sufficient incentive for State or local areas to control the cost for legalized aliens at their level.

We are very concerned about the way the bill provides medical assistance. The bill provides for medical assistance in the case of serious illness or injury or in the interest of public health.

We understand the intent of the legislation was to provide legalized aliens with needed medical assistance, but not comprehensive medical coverage. However, physicians will probably decide that most medical care meets these criteria.

We anticipate two significant adverse consequences flowing from this language. First, there will be an incentive for providers in States to claim all services as serious to maximize Federal revenues to the State. We will end up covering virtually all medicaid services.

Second, in order to introduce some controls, we will need some regulations that will be burdensome on the State and on health care providers.

We believe that the cost of medical assistance to the legalized alien population using the coverage criteria stated in the bill will be as costly per capita as full medicaid coverge in the general population, excluding long-term care. We have worked with the Judiciary Committee staff in attempting to frame language that would provide legalized aliens with only limited medical assistance. Based on these consultations, we are even more convinced that such medical assistance provisions would be extremely difficult to implement under the existing medicaid program. The medicaid program uses broad definitions of covered services such as inpatient hospital services and physician services and does not define coverage by medical conditions such as fractures or cancer or in terms of specific emergency services.

Within this program it would not be possible to define care required because of serious illness or injury. Further, we believe that medicaid would not be an appropriate vehicle for pursuing public health objectives. The medicaid program pays bills, it is not an effective vehicle for pursuing public health.

The problems I have outlined here and described in more detail in my written testimony would apply as well in setting up a separate program of medical assistance outside the Medicaid system.

For this reason we prefer the public assistance provisions contained in the immigration reform bill recently passed by the Senate, S. 529.

The bill authorizes a program of block grants to assist States and localities in providing essential medical care and other welfare services and assistance to the newly legalized aliens. We support a block grant capped at a total cost of $1.1 billion for fiscal year 1984 through 1987. Adding the cost of some other welfare programs for permanent resident aliens that begin in fiscal year 1987, we estimate that between fiscal year 1984 and fiscal year 1988 the total 5-year cost of the assistance package provided under S. 529 would be approximately $2.2 billion. This would offset major costs for essential services that otherwise would fall on States and local areas as a result of legalization, while encouraging States to control costs.

The grant would permit States and localities to allocate the resources among multiple mechanisms other than medicaid that they already have for delivering health care, including HMO's, State-only insurance programs, GA medical assistance, county health departments, and community clinics. Use of such mechanisms could vary with local circumstances such as local labor market conditions and characteristics of the legalized aliens in the area. States we believe are in the best position to determine priority local needs, and the block grant enables them to tailor their spending program to meet those needs. We believe the block grant approach provides an appropriate balance between Federal fiscal responsibility and sharing in the cost of aiding this population.

H.R. 1510 is an expensive alternative to the block grant approach, but does not necessarily accomplish more in terms of meeting the needs of legalized aliens. Total costs for H.R. 1510 for 1984 through 1990 could be as high as $12.8 billion with the fifth year of the 100-percent reimbursement of State and local public assistance costs. We believe the U.S. public does not support the provision of costly medical and cash assistance to the legalized population.

Thank you for this opportunity to give you a brief statement based on my written testimony, and I will try to answer your questions.

[Mr. Pellechio's prepared statement follows:]

STATEMENT BY

ANTHONY J. PELLECHIO
DEPUTY ASSISTANT SECRETARY
FOR INCOME SECURITY POLICY

DEPARTMENT OF HEALTH AND
AND HUMAN SERVICES

Mr. Chairman, members of the Subcommittee, I am pleased to have the opportunity today to discuss H.R. 1510, the Immigration Reform and Control Act of 1983. We applaud the efforts of Chairman Rodino and Representative Mazzoli in guiding this important legislation through the Judiciary Committee. The Administration strongly supports the enactment of a balanced and fair immigration bill.

Public Assistance Benefits

I am here today to talk about our cost estimates on the public assistance provisions in the bill, with particular emphasis on provisions for medical assistance. Under H.R. 1510 as reported by the House Judiciary Committee, illegal or undocumented aliens who have resided in the United States since January 1, 1982 would be eligible for permanent resident status. Under this bill, legalized aliens would be ineligible for Federal welfare programs for five years. However, persons requiring assistance because of age, blindness or disability and those requiring medical assistance because of serious illness or injury or in the interest of public health would be exempted from ineligibility.

The Department of Health and Human Services has great concerns about these allowances for special cash and medical assistance for the estimated 2.9 million aliens that would be legalized under this bill. We estimate that the total Federal costs for public assistance under the bill would be about $676 million in FY 1984, $1.5 billion in FY 1985, $1.8 billion in

FY 1986, $2.1 billion in FY 1987, and $862 million in FY 1988. (FY 1988 costs could be as high as $2.2 billion if special 100% Federal reimbursement of State and local aid to aliens provisions in the bill are reauthorized through 1988.) Of this $6.9 billion, $2.8 billion would be used for Medicaid benefits to legalized aliens. It is important to emphasize that these costs are not included in the President's Budget for FY 1984 or the future years.

Assumptions for Cost Estimates

In doing our cost estimates, we have assumed that there now are about 6 million illegal aliens in the United States. The 3.5 to 6 million frequently cited as the range for the number of illegal aliens in this country is based upon a 1980 Census staff study and the results pertain to 1978. We used the midpoint of the 1978 range and assumed that since 1978, the illegal alien population has grown by 250,000 a year. Adding the additional illegal aliens increases the total to about 6 million in 1983 and 6.25 milion in 1984.

With regard to the January 1, 1982 cut-off date for legalization, we estimate that about 70% of all the illegal aliens in this country have resided here continuously since this date and would be be eligible for amnesty. We believe that nearly two thirds of those eligible actually would participate. Although amnesty participation rates of other nations have been lower, the rates in the United States are expected to be higher because the new employer sanctions program will provide incen-

tive for aliens to participate. We also expect amnesty participation to be higher because of the activity of community organizations in this country which have direct contact with the extensive and long-standing illegal alien social network.

In all, we estimate that with a January 1, 1982 cut-off date nearly 2.9 million illegal aliens and about 400,000 additional U.S. born children would participate in the legalization program.

In calculating potential involvement in welfare programs, we assumed that, generally, illegal aliens tended to be younger than the total U.S. population. Many of the adults are employed in marginal occupations and incomes tend to be low. We assumed that as the legalized population assimilated, it would behave more like the rest of the U.S. population with regard to its use of public assistance. Our estimates, therefore, assume that as aliens become eligible for particular types of welfare assistance, the rate at which they participate initially will be lower than that in the total U.S. population but will build up to rates for the population as a whole, controlling for age and income characteristics.

H.R. 1510 excludes legalized aliens from Federal medical assistance for 5 years unless assistance is required in the interest of public health or because of serious illness or injury. Physicians probably would decide that hospitalization and related services, physician visits,

immunizations, and medication all go toward conditions that are serious or in the interest of public health and thus would be reimbursable under the bill. Together, these services comprise over 90% of all Medicaid costs nationally excluding long-term care. Given that the legalized population might be in need of more medical services, we have developed our cost estimates based on the per person cost for full Medicaid benefits excluding long-term care.

Budgetary Impacts

The Department is concerned about the potential budgetary impacts of provisions in section 303 of the immigration bill which authorize full 100% Federal reimbursement of State and local costs for programs which provide cash, medical and other assistance including general assistance, Medicaid, and SSI State supplements. We believe these provisions are open-ended, would not allow for adequate cost control at the Federal level and would not provide sufficient incentive to States or local areas to control the cost of cash and medical assistance for legalized aliens. Furthermore, although the bill provides a four year authorization for section 303 reimbursement, should reimbursement be reauthorized for an additional fifth year, an additional $1.3 billion would be added to the bill costs.

Our total cost estimate for the welfare provisions of the bill between FY 1984 and FY 1988 is $6.9 billion. Attached to our statement are tables breaking out the costs during FY 1984 -1988 and FY 1989-90. Total bill costs for FY 1984 to

FY 1990 could be as high as $12.8 billion with a fifth year of 100% reimbursement of State and local public assistance costs. We believe that the U.S. public does not support the provision of costly cash and medical assistance to the legalized population.

We prefer the public assistance provisions contained in the immigration reform bill, S. 529, recently passed by the Senate. Under S.529, there are no provisions for direct Federal reimbursement of State and local public assistance costs. Instead, the bill authorizes a program of block grants to assist States and localities in providing essential medical care and other welfare services and assistance to the newly legalized aliens. We support a block grant capped at a total cost of about $1.1 billion for FY 1984 - 1987. Adding the costs of some other welfare programs for permanent resident aliens that begin in FY 1987 under S. 529, we estimate that between FY 1984 and FY 1988, the total five year cost of the assistance package provided for under S. 529 would be $2.2 billion. This would offset major costs for essential services that otherwise could fall on State and local areas as a result of legalization, while encouraging States to control costs.

The block grant proposed in the Senate bill would provide maximum flexibility for States to determine priorities in

offsetting increased costs resulting from legalization while minimizing the problems of interpretation or administration under this time-limited program. Regulations and reporting requirements would be reduced to the minimum necessary to assure appropriate use of Federal funds.

The grant would permit States and localities to allocate the resources among the multiple mechanisms other than Medicaid that they already have for delivering health care, including HMOs, State-only insurance programs, GA medical assistance, county health departments and community clinics. Use of mechanisms could vary with local circumstances such as local labor market conditions and the characteristics of the legalized aliens in the area. States, we believe, are in the best position to determine priority local needs and the block grant enables them to tailor their spending program to those needs. We believe the block grant approach provides the appropriate balance between Federal fiscal responsibility and sharing in the costs of aiding this population.

Medical Assistance Provisions

The provisions in section 301 authorizing medical assistance when a legalized alien requires such assistance in the interest of public health or because of serious illness or injury and is otherwise eligible for Medicaid could cost more than necessary. We understand the intent of the legislation was to provide legalized aliens with needed medical assistance, but not comprehensive medical coverage.

However, we believe that the cost of medical assistance for the legalized alien population using the coverage criteria stated in the bill would be as costly per capita as full Medicaid coverage in the general population (excluding long-term care).

We have worked with the Judiciary Committee staff in attempting to frame language that would provide legalized aliens with only limited medical assistance. Based on these consultations, we are even more convinced that such medical assistance provisions would be extremely difficult to implement under the existing Medicaid system.

The administrative difficulties of trying to incorporate into the Medicaid program a wholly distinct time-limited program embodying different eligibility, services, administrative procedures and financing would be disruptive, expensive and difficult to target. These problems would not be ameliorated by the provision in the bill permitting States to request waivers of title XIX State plan requirements in providing restricted medical assistance to aliens. No matter what waiver authority exists, it would be very burdensome for this Department and the States to set up and administer within the existing Medicaid system a special new and separate program for legalized aliens consisting of a reduced benefit package and limited eligibility that is based upon severity of condition and public health interest. Definitions of "severity of condition," for example, could be the subject of considerable litigation. The Medicaid program uses broad definitions of covered services such as "inpatient hospital services" and "physician services" and

does not define coverage by medical conditions such as fractured skull or lung cancer or in terms of specified emergency services. Within this program, it would not be possible to define care required because of serious illness or injury as the bill provides.

Furthermore, we believe that Medicaid would not be an appropriate vehicle for pursuing public health objectives. The Medicaid program pays medical bills and is not designed specifically to conduct the kinds of outreach and information activities essential to achieve public health objectives.

The development of new claims review procedures (to screen out care that is neither urgent nor in the public health interest) would be time-consuming, expensive and prone to considerable error. Additional modification to the Medicaid system would be necessary due to different Federal financial participation, different service packages and different claims processing procedures to support the population covered in this bill. Dual identification cards would be needed to distinguish those persons eligible for partial Medicaid benefits from fully entitled recipients. Such a system would confuse providers and impede our efforts to improve provider participation in the Medicaid program.

The problems outlined above also apply in setting up a separate Federal program of medical assistance outside the Medicaid system. We believe that decisions regarding exact services to be covered, persons to be considered eligible, the reimbursement relationship between the service provider and the payor, and the balancing of financing between medical care and other essential services can best be made by the individual States. For this reason, we believe that a block grant would provide the most flexible and responsive approach. The block grant would enable each State to use whatever system best would fit the medical assistance systems and the needs of the legalized aliens in that State.

Thank you for this opportunity to address the Subcommittee. I am prepared to answer any questions that you may have at this time.

Version
H.R. 1510

H.R.1510 AS MARKED UP BY HOUSE JUDICIARY
5/9/83
VERSION A

	1984	1985	1986	1987	1988	1989	1990		
AFDC	0.00	0.00	0.00	0.00	0.00	267.41	567.11		
FOOD STAMPS	7.96	20.95	31.31	37.80	39.93	360.09	741.59		
MEDICAID	320.52	664.00	693.95	720.89	405.35	405.71	411.88		
GENERAL ASSISTANCE	216.40	556.14	798.84	934.87	0.00	0.00	0.00		
SSI	37.06	98.37	145.30	175.21	144.35	150.85	157.64		
DISABILITY INSURANCE	93.96	123.37	163.16	214.29	272.18	345.20	428.90	84-87	88-90
TOTAL	675.89	1462.83	1832.56	2083.05	861.82	1529.25	2307.11	6054.33	4698.18

*EDWARDS AMENDMENT IN PLACE FOR FY84 THROUGH FY87.

Version B of H.R. 1510.

Edwards Amendment in place for 5 years

23-094 0 - 83 - 14

H.R.1510 AS MARKED UP BY HOUSE JUDICIARY
5/6/83
VERSION B

	1984	1985	1986	1987	1988	1989	1990		
AFDC	0.00	0.00	0.00	0.00	0.00	267.41	567.11		
FOOD STAMPS	7.96	20.95	31.31	37.80	39.93	360.09	741.59		
MEDICAID	320.52	664.00	693.95	720.89	737.74	572.04	411.88		
GENERAL ASSISTANCE	216.40	556.14	798.84	934.87	957.31	490.14	0.00		
SSI	37.06	98.37	145.30	175.21	184.77	171.97	157.64		
DISABILITY INSURANCE	93.96	123.37	163.16	214.29	272.18	345.20	428.90	84-87	88-90
TOTAL	675.89	1462.83	1832.56	2083.05	2191.93	2206.85	2307.11	6054.33	6705.89

Mr. WAXMAN. Thank you. You testified that the administration strongly supports a balanced and fair bill, yet you seem to be proposing a very unfair Federal avoidance of responsibility. You estimate that the total Federal public assistance costs of legalization between 1984 and fiscal year 1988 will be $6.9 billion, yet you propose to limit the Federal responsibility to $2.2 billion. Who will pay the remaining $5.7 billion?

Mr. PELLECHIO. There is an important difference between S. 529 and H.R. 1510. The cutoff date for eligibility for permanent resident status was moved up in H.R. 1510 from January 1, 1980, to January 1, 1982. So the difference between 6.9 and 2.2 reflects a lot of things, an important factor being the difference in the number of aliens eligible for the amnesty program. The $1.1 billion based on the cutoff date in S. 529 would provide benefits to aliens on a per capita basis of about $3,400 a year, which is slightly less than average AFDC benefits over that same period.

Mr. WAXMAN. So do you feel the Federal Government is paying its fair share, then, of what the costs will be?

Mr. PELLECHIO. Yes.

Mr. WAXMAN. How much do you expect the States and local governments to be picking up if you change your estimates because you think the assumptions that you originally made were incorrect?

Mr. PELLECHIO. We expect the $1.1 billion to cover the essential medical and cash needs of the alien population. We do not expect States to cover much more than that.

Mr. WAXMAN. What does "much more" mean? Can you give us a dollar figure?

Mr. PELLECHIO. I cannot give you a dollar figure now. I do have the cost estimates expressed in great detail and would be glad to submit for the record a page-by-page description——

Mr. WAXMAN. We would like to look at it, because I believe that what you are proposing is for the Federal Government to pay under one-third of the costs that the Federal Government estimates are associated with this population.

Mr. PELLECHIO. We would have to compare estimates for the same population. We would be glad to make that adjustment and talk with your staff about different interpretations about State participation in the program. There would be some variation in what States provide because there is great variation in their general assistance programs. That is very hard to model, but we could take that into consideration as best we can.

Mr. WAXMAN. It seems to me we know what the programs are, we know what the States are providing. We have some estimates of the costs, you have given us pretty detailed estimates, yet you do not have this information. I want you to talk to our staff about it because if you are proposing, as I am afraid you are, the Federal Government is to pay only a third of the cost, that means two-thirds is going to be borne by somebody else. I am trying to figure out who is going to be bearing that cost. I think it is pretty obvious who will.

You have given estimates of the cost of legalization. Do you have any estimates of how much income tax the undocumented population pays to the Federal Government?

Mr. PELLECHIO. We do not have that capability at all. We would have to defer to the Treasury Department and the Department of Justice for those estimates. Our data bases do not give us enough income accuracy on alien populations to do it ourselves.

Mr. WAXMAN. You say the administration supports a block grant because it would provide maximum flexibility to the States and localities in meeting their own needs, yet the States and localities appear to oppose a block grant. It is their view that a block grant approach would allow the Federal Government to avoid its responsibility for the costs associated with these newly legalized aliens. Is not the block grant approach just an abandonment of the States and localities, and ultimately the newly legalized populations?

Mr. PELLECHIO. I think it is understandable that State and local officials would not support a block grant because it places a specific dollar limit on the funding they are going to get for providing necessary medical and cash assistance. It imposes, if anything, on them the responsibility to use this money to meet those needs, and that is a lot harder to do than just to get an open-ended commitment from the Federal Government for funding. It is a position I can understand. I do not think that a block grant abandons Federal responsibility to the States or to the illegal aliens. As I said, under the terms——

Mr. WAXMAN. Well, it does mean if there is not enough money from the Federal Government that they will have to pick up the costs.

Mr. PELLECHIO. What I am saying is that we think the States with the specific amount of money would be in the best position to judge exactly what the necessary assistance is for their local population and can direct the money in the most productive way.

Mr. WAXMAN. You want to give them the flexibility to make those decisions, but you are not giving them enough money to do anything near what they think will have to be done.

One last question. The CBO gives us an estimate of $1 billion for the total medical costs of this bill over the 1984–88 period, and you have come up with a $2.8 billion figure. Why is there that discrepancy?

Mr. PELLECHIO. I think you are referring to the $2.8 billion for medicaid. I assume that the CBO $1 billion is for medicaid also. There are a few reasons for the difference. One is that we have different assumptions about the size of the population eligible for the amnesty program and the cash and medical assistance in the bill. Our estimate is higher. Second, the CBO estimates only take into account SSI-eligible aliens, who would also receive medicaid, as part of their medicaid cost estimates, as well as people who would be picked up under the State GA program. We include in our medicaid cost estimates the AFDC-eligible aliens who would not be receiving AFDC because of the 5-year prohibition, but would receive medicaid assistance under the GA program. I have spoken with the people at CBO who have done this, and I do not think we disagree on methodology. We disagree on some estimates. I think the important point in our range of estimates is that it reflects different interpretations of the language. As I said in my testimony, we find the language to be imprecise, and it is of great concern to us. We have interpreted it in a way that we can defend, and CBO has in-

terpreted it another way. But as far as our methodology is concerned, and taking into account differences in certain assumptions, our methodology is in line with theirs.

Mr. WAXMAN. Mr. Scheuer.

Mr. SCHEUER. Mr. Pellechio, you just told us that your disagreement with the CBO hinges on differing estimates of the size of the population eligible for the medicaid program. There are those of us who fear that there might be a significant explosion of additional illegal immigration over the current rate as a result of the easy availability of forged documents and the current totally porous state of our borders, those of us who fear that as a result of those two phenomena the exponential increase in the labor market populations, the number of kids coming into the employment years of Latin America, is going to create a tremendous and irresistible push factor, and with the porous state of the borders and the availability of forged documents that would prove all of these people are eligible for whatever dates and qualifications are in the law, we could have an explosion of illegal immigration that would make your 2.9 eligible pale into insignificance. It could be 5, 10, 20 million.

I mentioned before that Hispanic America, Latin America, and the Caribbean, have a job deficit of about 4 million jobs a year, that they must produce in order just to maintain the current pitiful rates of underemployment and unemployment. Let us say that half of those young people who find no jobs opt to go north and transit Mexico, the ones who are south of the Mexican border. That would add 2 million a year to the total of 2.9 million. Over a 5-year period you would be adding 10 million people. What would that do to your block grant, assuming we are right—and maybe we are not, maybe we are partially right. Maybe we have overestimated these phenomena or underestimated these phenomena. Maybe it will be 3 million of those 4 million. Instead of paying Congressman Waxman's estimate of a third of the cost of medicaid, if you pay a third of that, you would be down to 10 percent or perhaps 5 percent. Does this begin to strike you as being inequitable and unfair, presumptively on its face?

Mr. PELLECHIO. The first thought that crossed my mind when you were talking about the employment problems in other countries and perhaps an inflow of people into this country is the employer sanctions. I guess you are saying the employer sanctions, which are an important element of this bill, will not work. I would have to defer to the Department of Justice for their opinion about how the employer sanctions would work and how it would bear up under the pressures that you are describing.

Mr. SCHEUER. Right now under the current wording of the bill the employer does not even have to examine the documents of the proposed job applicant, right?

Mr. PELLECHIO. I hate to plead ignorance——

Mr. SCHEUER. Take my word for it. The employer does not. Until the employer is cited and actually convicted of having knowingly employed illegal aliens, and until the dog is convicted of his first bite, he does not have to ask for identification. We do not now have a nonforgeable identification document, and if he does have to ask for identification, all he is going to get is the same forged docu-

ments that the job applicant is going to show the immigration people, you see. From a practical point of view, we have the equivalent of an open border. I discussed this with our embassy people in Mexico only 2 weeks ago. They do not contradict my fears in any way. I have discussed this with the Commissioner of Immigration and Naturalization and his top aide. They have absolutely no hard data to contradict me with, and they admit that. These are just the wildest guesstimates on their part. They have an unenviable job, because there are no hard statistics. I do not blame them for not giving us hard statistics, there are none.

But it seems to me in the absence of hard statistical data on what the costs are going to be and in view of the fact that reasonably responsible people, including Government demographers at a high level in the Census Department and in the Immigration and Naturalization Service, who seem to think it is quite reasonable that there could be literally an explosion of illegal immigration when you crank into the equation the enormous number of already born young people who are coming into the labor market in the next 5, 10, 15 years, and most of whom are going to find jobs unavailable to them—When you put all of that together, you are going to have an exponential increase in costs. You will likely find yourself not paying Henry Waxman's one-third, but a tenth or a small portion of a tenth. Does that not strike you as being intrinsically unfair when this is quintessentially a Federal problem?

Mr. PELLECHIO. I think the $1.1 billion was arrived at in a fair way to meet necessary needs based on what we know now about the illegal alien population.

Mr. SCHEUER. We do not know anything hard now, and the first person who would verify that is the Director of the Bureau of the Census, and the second person who would verify that is the Commissioner of Immigration and Naturalization.

Mr. PELLECHIO. With regard to future inflow, I understand the bill does have provisions for shoring up border controls and also the mechanism for employer sanctions. You are bringing up a potential problem with the employer sanctions. I think I would be most responsible by saying that I would take it up with my colleagues at the Department of Justice, and hope that we can meet your concerns with a clearly thought-out answer. I really do not know anything about some of the controls that we have in the bill and how they will bear up under the information that you are presenting to me today.

Mr. SCHEUER. I do not want to pursue it further, and this is not a problem of your design or your wish or your making, but it seems to me intrinsically when our hard facts are so few and the problem is as amorphous as it is, and when the increase in costs is as dramatic as it is on the up side, for the Federal Government to say if you are lucky we will pay a third and if some of the estimates of illegal immigration arrive we will pay up to 5 to 10 percent, it strikes me as intrinsically unfair. We are in this together. The administration and Congress support this. Those borders are not Texas borders or California borders or Arizona borders or Maine or Vermont borders, they are borders of the United States of America, and it seems to me that the Federal Government ought to recog-

nize, and this is a Federal Government, and take responsibility for what is a Federal problem.

We absorb three-fifths, 60 percent of all the refugees who cross transnational borders in the world. We are doing our part. We have been extraordinarily compassionate in the richest Judeo-Christian tradition of our country, and I would support a continuing high legal, moral, ethical rate of legal immigration. I think we ought to do what we can to control the illegal immigration and do what we can to cure the problem that Senator Simpson describes as our borders being out of control. But our country has stated its moral and ethical position time and time again in our laws, in our appropriations. Why now are you saying this is no longer a Federal problem, this is a problem for California, Arizona, New Mexico, Maine, Vermont, and New York? This is a drastic change in our national policy.

Mr. WAXMAN. I think that is an outstanding question and a rhetorical one and I am not going to ask the witness to respond to it again. I want to thank Mr. Scheuer for raising it, because I think it is the essential question I think we have to deal with. We thank you for your testimony.

Our final panel will comment on the issue of the costs of the bill to the Federal Government. Charles Seagrave heads the Human Resources Cost Estimating Unit in the Congressional Budget Office, which prepared the cost estimates on the bill for the Judiciary Committee. These are found in the committee report beginning on page 99. David North is the director of the Center for Labor and Migration Studies of the New TransCentury Foundation, a leading analyst of immigration trends, and has over the past 14 years done research for the Departments of State, Labor, Health and Human Services, and Justice, as well as various foundations and local governments on these questions.

Gentlemen, you have heard the administration's estimates regarding the costs of the judiciary bill. Could you give us your reaction to those estimates? Let us start with Mr. Seagrave for his comments.

STATEMENTS OF CHARLES SEAGRAVE, CHIEF, HUMAN RESOURCES COST ESTIMATING UNIT, CONGRESSIONAL BUDGET OFFICE; AND DAVID S. NORTH, DIRECTOR, CENTER FOR LABOR AND MIGRATION STUDIES, NEW TRANSCENTURY FOUNDATION

Mr. SEAGRAVE. The estimates that CBO prepared at the time the bill was ordered reported by the Judiciary Committee are somewhat lower than those presented by Mr. Pellechio. I believe you have a table in front of you comparing the numbers. The total costs over the 1984 to 1987 period would be about $6.1 billion. The CBO estimates costs of about $3.3 billion.

Three basic factors account for most of the differences in the numbers. First of all, the administration has used a somewhat larger estimate of the illegal alien population in the United States. I understand that they have assumed about 6.3 million illegal aliens in developing their estimate. CBO developed its estimate based on a figure of 4.5 million illegal aliens.

Second, the CBO in its estimate has assumed that people will enter some of these programs more slowly than the administration has assumed. Our understanding is that, in order to receive a resident alien status, one has to pass a public charge test showing that he or she is not likely to become a public charge. We feel that, if that provision is effectively administered, the costs in the early years will be somewhat lower than those presented by the administration.

Finally, we have costed out the medical component of the bill at a somewhat lower cost for programmatic reasons. As I understand it, the administration, has basically assumed that coverage similar to that now conveyed under the medicaid program would be given to the AFDC and SSI family types in the resident alien population. CBO, however, has been told in fairly lengthy discussions with the Judiciary Committee staff that that was not the intent of the committee, and this is confirmed by the guidance in the Judiciary Committee report.

Therefore, particularly for the AFDC family types we have costed out the bill assuming that medical coverage more like that currently provided by State and local governments would be available as opposed to the coverage provided under the medicaid program.

If you look at the medical total in the table, it shows HHS having a cost of $2.4 billion over the 1984–87 period, whereas CBO estimates a cost of approximately $1 billion. If we added medicaid coverage to that group of costs, the CBO estimate would rise by about $400 million.

I believe those are the three major differences between the CBO estimate and the administration estimate.

STATEMENT OF DAVID S. NORTH

Mr. NORTH. I am David North. I have studied alien legalization programs around the world, including Great Britain, Holland, Belgium and more recently the U.S. Virgin Islands.

I have also spent time working as a consultant to the counties of Orange and Los Angeles regarding the legalization programs, so I have had some on-target experience with this subject.

I would like to make seven points today but, first, I am here in two roles. I did at the request of the staff write a paper regarding the physical examinations that will be required of the aliens seeking legalization.

I am not going to talk about that. Antonia Hernandez referred to it and advocated my position well earlier today.

Right now I am reacting to the CBO and OMB and HHS estimates of the cost of this bill. I do not have a written paper because I did not have a chance to see the HSS estimates until about 7 O'clock last night, but I would like to make my seven points.

First, the good news. The good news is that the HHS and CBO estimates are getting closer together. They are only about 2½ to 1 apart in this current set of documents, if you take out the education component, which is included in one set of estimates and not in the other.

I looked at a pair of such estimates which were 20 to 1, which is a much larger deviation, so that if we are down to 2½ to 1, I think that is a step forward and helpful.

As I read it, for the period 1984 through 1987, I find the CBO has an estimate of $2.4 billion versus the administration's cost of $6 billion. CBO, incidentally, includes unemployment insurance and HHS does not, which essentially understates the difference.

But nevertheless, it is considerably less than 20 to one, which is a good thing.

Second, I would say as someone who looks at editorial material that the nuances are telling. The administration rolls out its boxcar figures for multiyears and CBO makes you add them up.

The administration makes no distinction between budget authority and outlays, a distinction that I couldn't make, but I recognize the fact that CBO does make that distinction and I value that.

Detailed examination of some of the specific numbers suggests large flaws in both estimates. Let me give you one example from each.

For example, I find it hard to believe that the fiscal year 1984 outlays for unemployment insurance will be only $5 million, which is the CBO estimate. The legalization program if it goes at all this year will be likely to start, in fact, about March 1, April 1 of 1984, which is halfway through that fiscal year.

We find that $5 million adds up to $100 a week in UI benefits to 5,000 applicants, each with 10 weeks of UI. Those are very low, and I believe unbelievable numbers.

On the other hand, for the same 6-month period, that is, the latter half of fiscal year 1984, HHS has over $200 million in general assistance as its estimate.

I find that unbelievable on its face, and I say that after looking at these things very carefully for the counties of Orange and Los Angeles. Los Angles probably has 10 percent of the illegal immigrants in the country and I think that their estimates would suggest that they certainly aren't going to be spending $20 million in the first 6 months of this program.

My third point is that both of the agencies involved apparently are not presenting their assumptions. I find it difficult to critique a document when much of the thinking going behind it is hidden.

I do this kind of work, as I said, and if I handed in a paper as incomplete as the ones I am looking at, my clients would fire me. If there are detailed assumptions about demographic mixes of populations to be served, extent of utilization, cost per week or cost per month, it should be spelled out for all to see.

It shouldn't be something that is handled sort of off-stage later. Let me give an example drawn from HHS figures that dealt with supplemental security income.

I drew together some data that they had not. I was looking at SSI. I was looking at three populations, the Cubans, the Russian refugees, and at the Haitian entrants.

If you tend to blur together an alien population as one, that is a mistake.

The Haitians were about one-fortieth as likely to draw SSI as the Cubans or the Russians. Very few Haitians are old or disabled. They don't get here if they are either.

Whereas, there is a substantial number of older people coming in from Russia, and there is a substantial number of older and disabled persons that came in with the Cuban entrants.

So there is a remarkable difference in demographic mixes, and you need to know that before you can make any judgment about the quality of the estimates you are dealing with. We are denied that information.

Fourth, not only are these estimates lacking in supporting data, the Government generally, and this is true of the previous administration as well as this one, have been very cavalier about securing a data base in this area.

HHS tells us that the program may cost $10 billion, but it hasn't spent $100,000, $200,000 to find out what those figures really might be. One could get a very good estimate of the size of the illegal alien population in this country through some sampling techniques.

One could work out through a series of underground, off-the-record sorts of surveys of potentially eligible people what percentage of them may come forward.

The Government has been almost unbelievably lax in terms of trying to get that kind of data. If the cigarette company is introducing a new cigarette, it spends a substantial amount of money on market research.

It finds out who is likely to smoke this cigarette and who they can sell it to. If the Government put one-tenth as much money into a little market research in this area, it would not find itself with such enormously different estimates as it does.

My fifth point is that generally in legalization programs around the world fewer come than expected. I have never seen it work any other way.

The HHS statement said that this legalization is going to be so attractive that the percentage of response will be higher here than in those of other nations. I spent some time studying the Canadian legalization program of 1973.

It was superbly done. It was done within the framework of a parliamentary government, a cabinet government where the way the government is organized is somewhat different than it is here.

It is easy to move ahead swiftly in Canada, even within a democracy to get things done. The cabinet was very much behind the legalization program.

They spent a lot of money on it. It was a high tension, high publicity program. All the ethnic groups were totally in favor of it. There wasn't a bit of dissent about it, they got about a quarter as many people as they thought they would.

I do not think that the United States is capable of doing as good a job on a legalization program—I told my friends at INS this—as the Canadians did, and I think that it is inappropriate to suggest that we are going to get a larger turnout than some other countries did because we are going to do such a good job.

I doubt that very much. For instance, the Virgin Islands legalization program, there was an anticipation that something on the order of but no more than 5,700 people would come forward.

So far 1,500 people have come forward. I am going to be very surprised if more than 1½ million people respond to the legalization program on the mainland.

I wish I were wrong, but I am afraid I am not.

My sixth point as far as expenditures are concerned is that they will develop slowly and they will come along substantially after the program gets underway.

In fiscal year 1984, for instance, probably no more than 6 months of that time will a legalization program actually be underway.

Very few people, relatively speaking, will complete the process during those 6 months. In fiscal 1985, the legalization program will come to an end, probably toward the end of that year, toward the end of fiscal 1985, most of the people who have successfully gone through the program will have their green cards and will be thus clearly eligible for the programs we are talking about.

I think that not only is there that delay in the first couple of years of the program, but we are dealing with a population, the currently undocumented aliens, who have traditionally not been able to secure moneys from cash assistance programs.

Similarly, they have had more access to medical care which is appropriate. Nevertheless, there will be a long time before the members of the population start reacting to the programs available to them at the same rate that they do with the U.S. population. So I expect a slow development of these programs.

Finally, there are some administrative options which could slow or speed the growth of this program.

If California, for instance, were to decide that a newly legalized alien seeking general assistance had to come in with a green card, which probably will not be issued until 6 or 7 months after application, then they would delay that application by 6 or 7 months.

On the other hand, a mere receipt indicating that the person had in fact applied for the program, if that were acceptable, then you would have a much more quick response to the program. So that the Feds and the State and local governments do have some leeway in terms of how they interpret these programs.

I again am grateful to the committee for inviting me to talk about this and would be happy to answer any questions.

[Mr. North's prepared statement follows:]

Statement by

David S. North, Director
Center for Labor and Migration Studies
New TransCentury Foundation

Recently, the Ford Foundation sent me to the Virgin Islands to study the operations of a small alien legalization program there.* The idea was that we might be able to pick up, in that laboratory setting, some lessons for the anticipated Mainland legalization program. The activity in the Virgin Islands is a small one, and part of a 13-year-long effort to undo the damage from the guestworker program we established in those islands in the 1950s.

Without getting into detail here, the program in the islands was set in motion by the Virgin Islands Nonimmigrant Alien Adjustment Act of 1981 (PL 97-271), which was shepherded through the Congress by the Island's non-voting delegate, Ron de Lugo. INS and the local volags are working together cheerfully, and the program is going well -- but, as is often the case, fewer people are coming forward than anticipated. Those adjusting status are the H-2s (temporary workers) and their dependents who had been admitted to the Islands before 1975.

What struck me most strongly in the Islands were the medical examinations, which will surely accompany a legalization program on the Mainland. (Congressman Lungren successfully introduced an amendment to Simpson-Mazzoli in the House Subcommittee recently that reinforces the inevitability of this requirement.)

---

*Much of this paper is drawn from David S. North, Virgin Islands Alien Legalization Program: Lessons for the Mainland (Washington: New TransCentury Foundation, May 1983).

I was struck by the examinations for two reasons:

first -- they are expensive, and

second -- they represent a remarkable (and under-utilized) public health intervention among a medically-underserved population.

In the Islands, the examinations cost from $72 to $98 each -- compared to $42 each for the non-medical aspects of the adjustment program. (We found among a dozen or so INS-designated physicians or clinics in the Los Angeles, Washington, Baltimore, and Denver areas that the price is more reasonable, in the $40 to $55 range.)

In terms of money, I visualize the Government, more or less unwittingly, setting up say $100 million worth of medical services (if 2 million undocumenteds come forward). If we are going to cause a low-income segment of the population to buy $100 million worth of anything, we should make sure that they get their money's worth.

Second, I found the physical examinations are a mandated contact with a physician in which outdated concepts are used, and in which only the most limited tests are conducted. For example, the Government insists on using the chest x-ray as an initial screening device for TB, a technique long since abandoned by the knowledgeable people in the field (the American Lung Association and the American Thoracic Society). The Lung Association, not wanting to increase either costs or x-ray exposure needlessly actively campaigns against mass x-ray screening. Further, the blood is drawn from the alien's arm -- and then tested only for syphilis. Finally, we have the

the aliens in the doctors' offices, but do not take advantage of this situation to make sure that they have their polio vaccinations or other shots. All schools insist on a round of immunization as a part of the admissions process -- maybe the nation should, too.

Looking back into our history, the U.S. began, more than 100 years ago, to impose some qualitative (as opposed to numerical) controls on immigration. Among the decisions along these lines were the exclusion of persons with loathsome and dangerous diseases (Act of 1891), of the insane and those with epilepsy (in 1903), of the feeble-minded and those with tuberculosis (in 1907), and of chronic alcoholics (in 1917).

The decisions as to who was to be excluded used to be made on Ellis Island, and immigrant inspectors* at the time were told to watch the would-be immigrants as they climbed the stairs, for example, to identify people who limped. Arriving immigrants with such problems were given technical assistance by the steamship lines as to how to thwart the inspectors. Women with a limp on the right were told to carry a baby on that hip, for example.**

*The current--and gentler term--is immigration inspectors.

**The steamship line's motives were, among others, financial. They would have had to finance the excluded alien's return trip to Europe. I wish I could recall my source for this story.

The current language in INA on this point reads as follows:

"Sec. 212(a) Except as otherwise provided in this Act, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

"(1) Aliens who are mentally retarded;
(2) Aliens who are insane;
(3) Aliens who have had one or more attacks of insanity;
(4) Aliens afflicted with psychopathic personality, or sexual deviation, or a mental defect;
(5) Aliens who are narcotic drug addicts or chronic alcoholics;
(6) Aliens who are afflicted with any dangerous contagious disease;
(7) Aliens not comprehended within any of the foregoing classes who are certified by the examining surgeon as having a physical defect, disease, or disability, when determined by the consular or immigration officer to be of such a nature that it may affect the ability of the alien to earn a living, unless the alien affirmatively establishes that he will not have to earn a living..."

Currently, medical decisions are based on physical examinations given by physicians selected by the Immigration and Naturalization Service for this purpose. Examinations of newly-arriving immigrants are generally conducted in the alien's homeland, and the results are reviewed by consular officials prior to the issuance of the immigrant visa. In cases where the alien is already in the U.S. and is seeking to adjust status, the same examination is conducted by INS-selected physicians inside the States, and the results are reviewed by INS officials, such as those on St. Thomas and St. Croix.

Exhibit 1 is a reproduction of Optional Form 157 which, despite its name, is a mandatory part of the alien adjustment process. It shows the types of physical conditions of concern to the Government, and it sets out three classes of problems: C, minor ones; B, more important ones not requiring exclusion; and A, those calling for exclusion.

In Fiscal Year 1980, U.S. consular officials abroad denied a total of 14,496 visa applications on one of the 33 grounds for excludability under the INA. Of that total, 815 were determined to be medically excludable for one of the seven provisions mentioned above. The largest subgroup of medical excludables (580) was denied visas because of the presence of a dangerous or contagious disease.* No data are available on the number of denials of adjustment of status on medical grounds, but we suspect that this is a rare occurrence.

In order to make these determinations, the aliens must go through four processes, a chest x-ray (for TB), a blood test (for syphilis), a urine test (for a variety of conditions),** and a physical examination by the INS-selected physicians.*** The lab work is done first, and the physician takes the results into account in his report to INS.

---

*Source: U.S. Department of State, Bureau of Consular Affairs, Immigrant Visa Control and Reporting Division, "Statistics on Immigrant Visa Issuance During Fiscal Year 1980," mimeo, 1981.

**The urine test is traditional in the Islands, but is not required by PHS on the Mainland.

***The lab work is done mostly by private concerns rather than by the two (apparently over-burdened) public hospitals (one on each major island). We encountered two interesting facets of medical economics: (1) the price of x-rays was increased immediately after PL 97-271 went into effect; (2) the hospital on St. Thomas charges $5 for a non-reactive blood test and $10 for a reactive one.

EXHIBIT 1: OPTIONAL FORM 157

MEDICAL EXAMINATION OF VISA APPLICANTS

Place

Date of Examination

At the request of the American Consul at | CITY | COUNTRY

I certify that on the above date I examined | NAME | AGE | SEX

I examined specifically for evidence of any of the following conditions:

CLASS A:
DANGEROUS CONTAGIOUS DISEASES:

Chancroid
Gonorrhea
Granuloma inguinale
Leprosy, infectious
Lymphogranuloma venereum
Syphilis, infectious stage
Tuberculosis, active

MENTAL CONDITIONS:

Mental retardation (mental deficiency)
Insanity
Previous occurrence of one or more attacks of insanity
Psychopathic personality
Sexual deviation
Mental defect
Narcotic drug addiction
Chronic alcoholism

(See proviso Sec 34.7 USPHS Regs.)

CLASS B:
Physical Defect, Disease or Disability Serious in Degree or Permanent in Nature Amounting to a Substantial Departure from Normal Physical Well-Being.

CLASS C:
Minor Conditions.

(CHECK NUMBER (1) BELOW OR COMPLETE NUMBER (2))

My examination, including the X-ray and other reports below, revealed:

☐ (1) No defect, disease, or disability.

(2) Defect, disease, or disability, or previous occurrence of one or more attacks of insanity, as follows (give Class-A, B, or C-diagnosis, and pertinent details*):

Chest X-ray report_____

_____ from Dr._____

Blood Serological Report_____ from Dr._____

Other special reports (when needed)_____

from Dr._____

Signature of Medical Technical Advisor	Title	Date of Final Report

*Continue on reverse side if necessary

Optional Form 157
(formerly FS-398)
January 1975
DEPT OF STATE

Note: This is a retyped copy of Optional Form 157. We were unable to secure a sharp enough copy for photocopy purposes.

There are two sets of results in this process, medical and legal, with the former being far more important than the latter. Further as is often the case in the Islands, good statistics are not available.*

The medical results flow (largely) from the fact that the aliens are, to some unknown extent, a medically-underserved population. The examinations often bring to light conditions that need to be corrected.

Of the three preliminary laboratory processes, the x-ray is the most expensive, and the one least likely to indicate problems. The blood test was more likely to produce a positive reaction, and the urine test was even more likely to be positive. We asked two INS-selected physicians how often they saw positive results and received the following estimates:

Test	Dr. A	Dr. B
Chest x-ray	very rarely	1%
Blood Test	3%	10%
Urine Test	7%	20-30%

An INS source said he thought the incidence of syphilis was about 20-25 percent, and that it was higher among the older people than the young ones, because the use of antibiotics did not start as early in the islands as it did on the Mainland.

---

*Data on the subject are contained in the file on each applicant for adjustment. A file search in the St. Thomas INS office would be possible but difficult, as the files on the newly-adjusted are not segregated; they are scattered through that office's collection of some 30,000 files.

23-094 O - 83 - 15

Once a contagious disease is identified, through the lab work or otherwise, the alien is told that he needs treatment. In effect, he is told to be treated or be excluded. All apparently agree to the treatment which is sometimes provided by the examining physician and sometimes by another doctor. Sometimes the examining physician demands a note from the other doctor indicating that the patient is being treated before the Optional Form 157 is sent on to INS. Occasionally, lung cancer and other serious problems are uncovered in these examinations. Thus, while statistics are not available, it appears that the blood and urine tests frequently bring medical treatment to people needing it. The utility of the x-rays is not so obvious.

In contrast to the relatively numerous medical results of the program, the legal (or immigration) results are few and far between. Very few people are denied adjustment for medical reasons. "The contagious are treated, and most of the mental cases are waived," according to one of the physicians.

Medical waivers of mental conditions (retardation and insanity) are available in some cases, and are granted by INS. A handful of the adjustment applicants in the Islands will probably not receive waivers of their conditions (severe psychotics or persistent drug abusers), but these decisions have not yet been made.

My layman's comments follow, the lesser followed by the more important.

1. The medical examination program presents one of those rare situations where the work of a physician is reviewed by a layman. We heard scattered criticism of some of the work done by the examining physicians. In one case, an INS office reported that it had to send a half a dozen reports back to the examining physician because an INS officer noticed a glaring condition missed by a physician. One example cited was of a person so severely retarded as to be incapable of speech, and the other was a clear case of mental illness.
2. While it would make sense on the Mainland to use the public hospital and clinic systems to conduct these medical examinations, this was not done on the islands. The island Health Department was busily opening a new hospital, and neither INS nor the volags pressed the issue.
3. It strikes me that the alien-funded medical examination in a Mainland legalization program will provide a once-in-a-lifetime opportunity for a public health intervention with a medically-underserved population, and that the U.S. Government should make the best of it. More precisely three options seem to present themselves:

a. The American Thoracic Society (representing physicians specializing in the chest) and the American Lung Association discarded the chest x-ray as a universal TB screening device years ago, on the grounds that it is both needlessly expensive and creates needless x-ray exposure. PHS continues to require the x-ray because it has virtually no opportunity to monitor physical examinations overseas, but it can inspect a sample of the x-rays brought into the country by immigrants. Perhaps INS and PHS should drop the chest x-ray (in favor of the skin test) given the stand of the lung specialists, and the fact that the legalization examinations will take place inside this country. In cases where there is a positive skin reaction, of course, x-ray and other tests would be used.

b. The second option is to do more laboratory work. Currently, the blood is taken, but analyzed only for syphilis. Should more be done with the blood? Further, while the urine test is traditional in the Islands, and quite useful, it is not demanded by PHS.
Should the urine test be given to all applicants for adjustment of status?

c. The third option, which can be dealt with independently from the other two, is to incorporate immunization into the screening process. (Replacing the x-ray test with a skin test would reduce the overall cost of the process, making it possible to fund options b or c.) While every school system in the country demands a series of immunizations (polio, diptheria, measles, whooping cough, etc.) before admitting a child into its system, the nation makes no parallel requirement before admitting aliens into our society.

Mr. SCHEUER. Thank you very much, both of you.

Mr. North, you indicate that significantly fewer people will apply for legalization and get it than we had anticipated. Now, under the bill the people who don't apply for it, or apply for it and don't get it, but for our purposes those who don't apply for it, will not have their health care taken care of in any part by the Federal Government. So if you are right, and they still have health care costs, these will continue to be 100 percent loaded on to cities and States.

Mr. NORTH. Let's put it this way. To the extent that a governmental body is supplying health care, that population that is either denied or doesn't apply for legalization, to the extent that a governmental entity picks it up, yes, it will be States, counties, and cities.

I should add, however, to some extent there is some private sector funding. I don't know that this is measurable. We are dealing with a largely young adult population among the undocumented, or at least we think we do, since we don't have more data on this.

Young adult populations have some kind of problems which tend to be picked up by the private sector, such as if you are in an automobile accident and there is insurance, that is handled by the private sector. If you happen to have a group health program, that too is handled by the private sector.

On the other hand, the other principal problem we have been talking about, the principal event, is having babies, and that often is not. But there is some private sector involvement.

And also, we are dealing with what I think we should recognize is an underserved population, but its demographic profile is reasonably favorable in terms of health costs. There will be health costs, but we are not dealing with a population that is on average 65 years old, for instance.

Mr. SCHEUER. Do either of you wish to respond to the question that I raised, that we may be vastly underestimating the cost of health care by not factoring into our computations what may be a large influx, additional influx, of illegal aliens or undocumented aliens, due to labor force push pressures and a very porous border, plus the ease of complying with the requirements of legalization by the easy availability of forged documents?

Mr. NORTH. I hope you are wrong, and I know you hope you are wrong in terms of your prognostications.

I sense that if there is such a movement, it will largely be people who cannot take advantage of legalization, and therefore they will either get their health care from the private sector or more likely from States and localities. So I suspect that that has a major impact on State and local health costs. It probably won't have much of an impact on the Federal costs, because both the Senate version and the House version tend to exclude picking up those costs. So it would be borne by States and localities.

Mr. SCHEUER. Well, by definition it would.

Mr. NORTH. Yes, that is what I am saying. I agree.

Mr. SCHEUER. And that is one of the great dangers, in my opinion—all of it would, under this bill, because under this proposal, under the block grant proposal, the Federal Government is saying, here is our contribution, anything after that is up to you.

So if there is a vast increase in the number of people who seek and receive amnesty or legalization, that would then be a 100-percent burden on States and cities.

What I am asking you is, do you think it is a reasonable prospect we may be underestimating by a factor of 5 or 10 the health burdens that bill could produce, because of an enormous increase in illegal immigration resulting from the factors I have outlined?

Mr. NORTH. I am worried about that. I think it depends on a whole lot of factors outside the purview of this committee, if not the House——

Mr. SCHEUER. Of course it does.

Mr. NORTH [continuing]. In terms of the extent to which more resources are made available to enforce the immigration law, not only in terms of the Border Patrol, which is likely to get funding, but the people who issue visas who are unlikely to get funding.

It also relates to the vigor with which we write and enforce an employer's sanctions law. You made a point earlier that the current provision at least on the House side is fairly relaxed on that point.

Mr. SCHEUER. Mr. Seagrave.

Mr. SEAGRAVE. We made no attempt in our estimate to take account of any huge new inflow of aliens misrepresenting their position in the United States. As I am sure everyone here is well aware, there are significant uncertainties involved in estimating the costs of this bill. The number of aliens that will come forward is simply one more potential uncertainty in those estimates.

Mr. SCHEUER. Well, I want to thank both of you for your patience and forebearance in staying with us almost to 1 o'clock. I want to thank all of the witnesses this morning for the excellence of their testimony. We appreciate it very much. Thank you.

The hearing is adjourned.

[Whereupon at 12:50 p.m., the subcommittee adjourned.]

[The following statements and letters were received for the records:]

MEMBERS OF THE BOARD

PETER F SCHABARUM
KENNETH HAHN
EDMUND D EDELMAN
DEANE DANA
MICHAEL D ANTONOVICH

CHIEF ADMINISTRATIVE OFFICER
HARRY L NUFFORD

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

440 FIRST STREET, N W , SUITE 30A
WASHINGTON D C 20001
(202) 737 7092

300 W TEMPLE STREET ROOM 725
LOS ANGELES, CALIFORNIA 90012
(213) 974 1301

JOSEPH M POLLARD
WASHINGTON REPRESENTATIVE — LEGISLATIVE COORDINATOR

STATEMENT

OF

SANDRA J. ANDERSON
DIRECTOR OF GOVERNMENTAL RELATIONS

DEPARTMENT OF HEALTH SERVICES

COUNTY OF LOS ANGELES

BEFORE THE

HOUSE ENERGY AND COMMERCE COMMITTEE

HEALTH AND THE ENVIRONMENT SUBCOMMITTEE

JUNE 17, 1983

WASHINGTON, D.C.

SERVING SEVEN MILLION PEOPLE

MR. CHAIRMAN, HONORED MEMBERS OF THE SUBCOMMITTEE, MY NAME IS SANDRA J. ANDERSON. I AM THE DIRECTOR OF GOVERNMENTAL RELATIONS FOR THE LOS ANGELES COUNTY DEPARTMENT OF HEALTH SERVICES. LOS ANGELES COUNTY WELCOMES THE OPPORTUNITY TO SUBMIT THIS STATEMENT ON HEALTH ISSUES RELATING TO HR 1510 (MAZZOLI), THE IMMIGRATION REFORM AND CONTROL ACT OF 1983. IMMIGRATION REFORM IS OF UTMOST CONCERN TO LOS ANGELES COUNTY AS WE PROBABLY HAVE MORE ALIENS -- LEGAL AND ILLEGAL --THAN ANY OTHER COUNTY IN THE UNITED STATES.

OUR PRIMARY CONCERN RELATING TO HEALTH ISSUES INVOLVES THE QUESTION OF WHICH LEVEL OF GOVERNMENT -- FEDERAL, STATE, OR LOCAL -- SHOULD BEAR RESPONSIBILITY FOR THE COSTS OF HEALTH SERVICES PROVIDED TO ILLEGAL ALIENS WHO WOULD BE GRANTED LEGAL STATUS UNDER HR 1510. IT IS OUR FIRM POSITION THAT THE FEDERAL GOVERNMENT, WHICH DETERMINES NATIONAL IMMIGRATION POLICIES, SHOULD ALSO BE RESPONSIBLE FOR THE COSTS OF ITS POLICIES. IT IS UNFAIR TO EXPECT A RELATIVELY FEW HEAVILY IMPACTED AREAS, SUCH AS LOS ANGELES COUNTY, TO BEAR SUBSTANTIAL COSTS RESULTING FROM FEDERAL POLICIES OVER WHICH THEY HAVE NO CONTROL.

THEREFORE, THE COUNTY STRONGLY SUPPORTS LANGUAGE IN HR 1510 WHICH PROVIDES FULL FEDERAL REIMBURSEMENT TO STATE AND LOCAL GOVERNMENTS FOR COSTS OF HEALTH AND WELFARE SERVICES FOR LEGALIZED ALIENS.

FEDERAL REIMBURSEMENT IS PARTICULARLY ESSENTIAL BECAUSE BOTH HR 1510 AND S 529 (SIMPSON), THE SENATE IMMIGRATION BILL, WOULD MAKE LEGALIZED ALIENS INELIGIBLE FOR FEDERAL HEALTH AND WELFARE BENEFITS, INCLUDING AFDC AND MEDICAID.

THE EFFECT OF DENYING FEDERAL MEDICAL ASSISTANCE TO NEEDY LEGALIZED ALIENS WOULD BE TO SHIFT THE RESPONSIBILITY FOR THEIR HEALTH CARE TO STATES AND LOCALITIES. LOS ANGELES COUNTY IS ALREADY INCURRING SIGNIFICANT COSTS IN PROVIDING HEALTH CARE TO NEEDY ILLEGAL ALIENS. THE CURRENT ESTIMATED COST OF HEALTH CARE SERVICES FOR ILLEGAL ALIENS IN LOS ANGELES COUNTY IS $99.5 MILLION FOR OUR CURRENT 1982-83 FISCAL YEAR WHICH ENDS JUNE 30, 1983.

WE BELIEVE THAT LEGALIZATION WOULD RESULT IN INCREASED COUNTY HEALTH COSTS BECAUSE NEWLY LEGALIZED ALIENS ARE LIKELY TO MAKE GREATER USE OF SERVICES ONCE THEY HAVE LEGAL STATUS. IMMIGRATION RESEARCHER DAVID NORTH HAS ESTIMATED THAT, ASSUMING THE JANUARY 1, 1980 LEGALIZATION CUT-OFF DATE CONTAINED IN S 529, LOS ANGELES COUNTY WOULD INCUR $20 MILLION A YEAR IN ADDITIONAL HEALTH COSTS. WITH THE CUT-OFF DATE OF JANUARY 1, 1982 CONTAINED IN HR 1510, THE ADDED COSTS WOULD BE EVEN HIGHER BECAUSE MORE ALIENS WOULD QUALIFY FOR LEGALIZATION. THE COUNTY IS FACING A MAJOR BUDGET SHORTFALL IN FISCAL YEAR 1983-84 AND WILL BE UNABLE TO ABSORB THESE COSTS WITHOUT MAJOR REDUCTIONS IN HEALTH AND OTHER SERVICES.

LOS ANGELES COUNTY STRONGLY FAVORS THE HOUSE BILL'S FULL REIMBURSEMENT PROVISIONS OVER THE SENATE BILL'S STATE BLOCK GRANT LANGUAGE, WHICH DOES NOT ASSURE THAT ANY MINIMAL PERCENTAGE OF STATE AND LOCAL COSTS WOULD BE REIMBURSED. WE ARE ALSO OPPOSED TO THE PER CAPITA ALLOCATION OF BLOCK GRANT FUNDS AMONG STATES. WE BELIEVE THAT REIMBURSING ACTUAL EXPENSES INCURRED IS THE MOST EQUITABLE WAY OF ALLOCATING FEDERAL FUNDS WHICH ARE INTENDED TO PROTECT STATES AND LOCALITIES AGAINST COSTS THAT MAY RESULT FROM LEGALIZATION.

IN CLOSING, LOS ANGELES COUNTY BELIEVES IT IS ESSENTIAL THAT THE PROPOSED IMMIGRATION REFORM LEGISLATION PROVIDE FULL REIMBURSEMENT OF STATE AND LOCAL COSTS THAT MAY RESULT FROM LEGALIZATION.

SEVERAL MILLION ILLEGAL ALIENS ARE IN THE COUNTRY TODAY BECAUSE OF THE FEDERAL GOVERNMENT'S FAILURE TO EFFECTIVELY CARRY OUT ITS RESPONSIBILITY TO CONTROL OUR BORDERS AGAINST ILLEGAL ENTRY. LOS ANGELES COUNTY SHOULD NOT HAVE TO BEAR THE COSTS OF A FEDERAL DECISION TO LEGALIZE THEIR STATUS.

zero population growth

1346 Connecticut Ave., NW Washington, DC 20036 (202) 785-0100

OFFICERS

PAUL R. EHRLICH
Honorary President
JOYCE LAMAN
President
JERRY F. DOWNHOWER
Vice President
CLAY PETERS
Vice President
RICHARD SHANTEAU
Vice President
ROBERT WEST
Vice President
KARIL FROHBOESE
Secretary
MAURA O'NEIL
Treasurer

CAROLE L. BAKER
Executive Director

SPONSORS

ISAAC ASIMOV
JESSIE BERNARD
GEORG BORGSTROM
NORMAN E. BORLAUG
JIM BOUTON
DAVID R. BROWER
LESTER R. BROWN
ROGER CARAS
HERMAN E. DALY
KINGSLEY DAVIS
WAYNE H. DAVIS
CATHY DOUGLAS
ANNE H. EHRLICH
PAUL R. EHRLICH
OTIS L. GRAHAM, JR.
GARRETT HARDIN
JOHN HOLDREN
SAM G. LANDFATHER
AMORY LOVINS
SHIRLEY MacLAINE
PETE McCLOSKEY
IAN L. McHARG
HELEN W. MILLIKEN
STEWART MOTT
DICK OTTINGER
BOB PACKWOOD
LINUS PAULING
ROGER TORY PETERSON
PATRICIA SCHROEDER
CHARLES E. SCRIPPS
RODNEY SHAW
B. F. SKINNER
STEWART L. UDALL
KENNETH E. F. WATT
HERBERT N. WOODWARD

Statement of Carole L. Baker

Executive Director of Zero Population Growth, Inc.

Before the United States House of Representatives

Committee on Energy and Commerce

Subcommittee on Health and the Environment

On H.R. 1510, The Immigration Reform and Control Act of 1983

June 17, 1983

Zero Population Growth, Inc. (ZPG) is a non-profit membership organization which was founded fifteen years ago. Our objective is to mobilize broad public support for population stabilization in the United States and worldwide, as a requisite for all human beings to attain a decent quality of life. (Stabilization is the attainment of a balance in which births plus immigration equal deaths plus emigration.) Our interest in immigration policy relates to the role that immigration plays in U.S. population growth. Current estimates indicate that 40 to 50 percent of our nation's annual growth is attributable to immigrants.

Our nation's environmental and resource problems--such as the increasing loss of topsoil and prime farmland; the proliferation of toxic wastes; water and air pollution; acid rain; habitat destruction and species extinction; deforestation and desertification with resulting climatic changes--are all caused at least in part by population growth. It is sobering to realize that, although Americans comprise only five percent of the world's population, per capita they use eleven times the world average of energy, six times the steel and four times the grain.

As the world's fourth most populous nation, the United States expanded its population in 1980 by 2.3 million people, not including illegal immigrants. At the 1980 growth rate of 1.02 percent, the U.S.

experienced the second greatest population growth of any developed nation. We Americans now number over 232 million. For every three of us today, there will be four by the year 2000. At this rate of growth, the U.S. is adding another California to its population each decade, and a new Washington, D.C. every year. In fact, in less than three years since April 1980, six million more people have joined our population, which is the equivalent of adding another state to the union.

Natural increase (the excess of births over deaths) and net immigration (immigration minus emigration) account for that 2.3 million increase. Although each American woman is bearing, on the average, fewer children than women did in the past, the total number of babies born annually is still on the rise. The women born during the "baby boom" generation, who are now in or are entering their childbearing years, contribute substantially: in 1980, 3.6 million babies were born--an increase of 4% over the year before. The 1980 U.S. fertility rate reached 1.875, the highest since 1974. Demographers project a continuing increase in the numbers of babies born each year, reaching a level of four million annually before tapering off towards the end of this decade.

If current fertility levels hold, by 2030 all growth in population will result from immigration. The flow of immigrants to the U.S. is approaching record levels. Immigration rose dramatically in the

decade of the '70's and may once again climb as high as in the first decade of this century, when about nine million people entered the country. High levels are expected to continue and even to accelerate, due in large part to population growth and consequent troubles in the source countries. According to the "push-pull" theory, immigrants will be pushed from their homelands by overpopulation, resource depletion, unemployment and political instability, and will be pulled into this country by job prospects and an ever-widening divergence in the per capita incomes of the United States and the source countries.

The present U.S. population has tripled since the turn of the century. Today, U.S. local governments are experiencing grave difficulties in trying to cope with the sudden influx of immigrants, who intensify competition for unskilled jobs, crowd into low-cost housing and place unplanned-for demands on educational and welfare programs. It is just as necessary to recognize that the lack of planning leads to inequities and other hardships for the immigrants. Clearly, industrialized countries are not immune to the impacts of increased population. Resource constraints, caused in part by population growth, have contributed significantly to economic inflation, stagnation, recession and depression. The Japanese, for example, have experienced a rapid rise in per capita income, approaching Western European levels, and yet they cannot attain the Western European quality of life because of overcrowding, lack of living space and a scarcity of natural recreation areas.

The concept that the problems of population growth, resource depletion and environmental degradation are something we must deal with solely in the future is a myth. These problems are upon us. The 1980 National Agricultural Lands Study found that population growth and shifts are major factors in the annual loss of three million acres of U.S. agricultural land. Furthermore, U.S. farmers attracted by the world grain market have adopted practices that resulted in the erosion of four to five billion tons of topsoil in 1982 alone. At the same time that these losses have been occurring, the demand for United States agricultural products is rising steadily due to worldwide population growth and increased per capita consumption. Demand for U.S. farm products may increase by 85% by the end of the century. For instance, in 1980, the world's population grew at a rate six times that of the world's food production for the same year. This means that, although food stocks increased, less food is available per capita, at a time when over 600 million human beings are severely malnourished. In the meantime, parts of our nation are running out of safe and sufficient ground water supplies, soil erosion is worsening, and desertification is ruining several regions of this country.

Population stabilization is one of the necessary tools to address these problems and to assure better living conditions for all people. Stabilizing the population and reaching zero population growth will help us solve the many crucial and complex economic, resource, and political problems confronting us. It was former Secretary of Defense

and President of the World Bank, Robert S. McNamara, who cited overpopulation as the gravest threat to human life, next to nuclear war. The 1970-72 Presidential Population Commission concluded,"... we have found no convincing argument for continued national population growth." In 1974, the then Governor of California, Ronald Reagan, stated, "Our country has a special obligation to work toward the stabilization of our own population so as to credibly lead other parts of the world toward population stabilization." Furthermore, the industrialized countries, recently concluding the Ottawa Summit on global economic conditions, agreed in their Summit Declaration that they "are deeply concerned about the implications of world population growth. . .and will place greater emphasis on international efforts in these areas."

In spite of such pronouncements, the U.S. still has no national population policy and no specific demographic goals, and, indeed, no overall program to help ease population pressures in other countries. It is pertinent to note that next year marks the tenth anniversary of the United Nations World Population Conference in Bucharest. At the 1974 conference, the United States joined 136 other countries in endorsing a World Population Plan of Action. One recommendation of the Plan is that,

> "Population measures and programmes should be integrated into comprehensive social and economic plans and programmes and this integration should be reflected in the goals, instrumentalities and organizations for planning within the countries. In general, it is suggested that a unit

> dealing with population aspects be created and placed at a high level of the national administrative structure and that such a unit be staffed with qualified persons from the relevant disciplines."

Although our nation is preparing to participate in the 1984 conference, we still have no articulated policy for national population growth and change.

If we are to deal with U.S. immigration policy over the long term as well as in the short run, we must address the circumstances that cause people to migrate from their native lands. Our nation's immigration goals and limits should be linked to a strong, comprehensive, cooperative international program in which more U.S. financial and technical assistance is directed to help other countries carry out family planning programs, create jobs and promote economic opportunities and stability, and defuse political tension and avert military conflict. Efforts such as these could lead to a notable drop in the numbers of immigrants entering the U.S. However, a serious commitment needs to be made, to alter the fact that, among the developed nations, only Austria and Italy provide a smaller share of their GNP for foreign aid than the United States.

Meanwhile, there is legislation at hand to address today's problems. For the most part, ZPG supported the original version of H.R. 1510. Our comments specific to the bill as it has been amended are as follows:

- Immigration should be addressed as part of an overall population policy: There is sufficient precedent to conclude that the Congress would agree that population stabilization is in the national interest. Therefore, we encourage the Committee to add language to H.R. 1510, stating that an effective immigration policy is an essential element in achieving population stabilization.

- We support an annual cap of no more than 425,000 legal immigration. We strongly recommend that the Committee restore such a provision to the bill. Considering that there could be added some 75,000 refugees, and not considering any illegal immigrants, annual immigration would then total about 500,000. To illustrate the numerical results of admitting that same total every year, we have appended as Exhibit A a table of population projections for the United States for the years 2000 through 2080. The projections, which have been provided by the Population Reference Bureau, contrast the annual net immigration totals of 0, 0.5, 1.0 and 1.5 million people.

  It can be seen that, even with no immigration at all, population would continue to rise until about 2020, when it would reach 266.5 million and then begin its downward trend toward stabilization. At 0.5, population would peak in 2040, at 294.7 million. With one million immigrants, which is today's estimated total (including

illegal aliens), there is no peak in sight. In 2080, the U.S. population will have reached 340.1 million and will still be rising. While there is no agreed-upon desirable population level for stabilization, some believe that the U.S. has already surpassed a sustainable level. Because our current numbers are straining available resources, we need to reach stabilization at the lowest possible level, while a range of options still remains.

o We support strict employer sanctions and a system for worker verification. The employer sanctions provision of the original H.R. 1510 would have effectively discouraged undocumented aliens from entering the U.S. in search of jobs; ZPG favored this. Now the same section of the bill has been greatly weakened, so that employers would be penalized only after being caught twice for having hired illegal immigrants. Because the present language offers little disincentive, we urge the Committee to restore the original sanctions provision.

To be effective, the systems for strict sanctions and for worker verification should be integrated with each other and must have sufficient funding and resources, since failures of sanctions programs in other countries resulted principally from lack of resources and political commitment. In addition, the civil rights of legal immigrants and citizens alike should be protected, and discrimination and any abuse of the worker's eligibility system

should be subject to substantial penalties. This means, in part, that the sanctions program must be accompanied by appropriate oversight, reporting and review. We believe a system can be devised that would significantly minimize the potential for discrimination.

- We support granting permanent resident status to those aliens who illegally entered the United States before January 1, 1982--but only if strict employer sanctions are restored to the bill, and if adequate funding for strong border enforcement is authorized for the Immigration and Naturalization Service.

Certainly, we feel that it is wiser and more humane to integrate the undocumented aliens into our society than even to consider mass deportation. We believe, however, that legalization must be a one-time occurrance, and must never again become a national necessity. To assure this, future illegal immigration needs to be systematically thwarted by means of aggressive programs for employer sanctions and border enforcement. In addition, as noted above, the root causes of immigration must be addressed through the concerted action of the developed nations. Relief of human suffering; insistence on social justice; provision of technical and monetary assistance (a) to create labor-intensive economies so that local and world market needs can be met and so that adequate diets, housing, and medical care can be made more widely

available, and, (b) to encourage family planning for future population stability--these measures together will work to reduce political unrest and to lessen the flows of immigrants and refugees across the face of this planet. As the one nation that takes in more than twice as many legal immigrants as all the other developed countries combined, the United States should take the lead in organizing such an international effort.

- We support the provision of adequate funding to enable the Immigration and Naturalization Service to implement the very reforms provided in this legislation. This must be a crucial aspect of any comprehensive legislation, if it is to be effective. The INS has been chronically under-funded and under-staffed. More training, more personnel and a change-over to computerization are very much needed. If funding for the INS were not substantially increased, the agency might be forced to take existing staff away from routine work and to reassign them to the new program, with no assurance that implementation would be effective.

- We oppose any expansion of the current H-2 guest worker program. It appears that employers could sidestep sanctions by hiring temporary foreign labor through the H-2 program. Such a practice would undermine the employer sanctions system. Furthermore, as long as U.S. unemployment remains high, citizens and other legal residents of this nation should be given every possible job opportunity. Employers must be given incentives to hire these workers instead of seeking labor from other countries.

In conclusion, it is ZPG's belief that continued immigration is a benefit to this country, bringing us cultural diversity and unique strengths. We believe that a balance can be struck that provides for both immigration and limits to growth, and we urge prompt passage of comprehensive legislation to reform our nation's immigration policy.

Exhibit A

PROJECTED

TOTAL U.S. POPULATION, YEARS 2000 - 2080,

BY ANNUAL NET IMMIGRATION (in millions) (*)

Annual Net Immigration (in millions)	Years				
	2000	2020	2040	2060	2080
0.0	255.9	266.5	256.4	235.9	214.9
0.5	267.4	291.5	294.7	286.6	277.0
1.0	279.1	316.9	333.8	338.2	340.1
1.5	290.9	342.4	373.0	390.0	403.4

(*) Provided by Demographic Information Services Center (DISC) of the Population Reference Bureau, 1337 Connecticut Avenue, N.W., Washington, D.C. 20036 (telephone: 202-785-4664).

National Governors' Association

Scott M. Matheson
Governor of Utah
Chairman

Raymond C. Scheppach
Executive Director

June 16, 1983

The Honorable Henry A. Waxman
Chairman
Subcommittee on Health and the Environment
2424 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Waxman:

It is our understanding that your Subcommittee is holding hearings on June 17th on Medicaid and Public Health provisions in the Immigration Reform and Control Act of 1983. The National Governors' Association would like to express our views on issues concerning federal reimbursement.

The states recognize that immigration policy is a federal responsibility. While we have no position on legalization itself, we believe that the federal government has a financial obligation to meet the additional state and local costs associated with such an immigration decision. The NGA policy states that:

> "If there is federal action to legalize undocumented aliens, states have concerns in the following areas:
>
> The potential for a major fiscal impact on state and local governments. The extent of this impact is impossible to determine because of widely varying projections of the actual numbers of undocumented aliens. It is clearly unacceptable, however, for the federal government not to assume any financial responsibility for these aliens . . . ."

The House bill, as adopted by the Judiciary Committee, includes NGA-supported language authorizing appropriations for full reimbursement of the additional costs associated with legalizing three to six million illegal aliens. A more detailed statement of the reasons for our position is provided in the attached material which was provided to the Judiciary Committee. We ask for your support of the current full reimbursement provisions of the House bill in your committee and on the House floor.

If you need additional information, please feel free to have your staff contact Emily Yaung at 624-7723 or Sandra Gammie at 624-7841.

Sincerely,

Raymond C. Scheppach

Attachments

cc: Members of the Subcommittee
on Health and the Environment

National Governors' Association

Scott M. Matheson
Governor of Utah
Chairman

Raymond C. Scheppach
Executive Director

May 2, 1983

Honorable Romano L. Mazzoli
United States House of Representatives
2246 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Mazzoli:

The National Governors' Association (NGA) strongly supports the provision in the Immigration Reform and Control Act (H.R. 1510) which authorizes federal reimbursement of expenses incurred by state and local governments in aiding illegal aliens who would be granted legal status under the bill. The bill also authorizes federal assistance to highly impacted school districts to aid in providing special educational services to school-aged children. The amount expended under this provision would be subject to Congressional appropriations.

Without federal financial assistance, legalizing the status of several million illegal aliens will increase state and local costs because legalized aliens will become eligible for forms of cash and medical assistance previously not available to them as illegal aliens. While there is a provision in H.R. 1510 which would authorize state and local governments to make legalized aliens ineligible for financial and medical assistance, the Governors are concerned that, if state and local jurisdictions exercise this authority, they would face litigation regarding its constitutionality.

The reimbursement approach does not presuppose that the individuals who will adjust their status under the bill will become dependent on public services. Nor does it ignore the provision in the bill which prohibits an adjustment of status to those who are, or are likely to become, public charges. Rather, it seeks to ensure that to the extent services must be made available to newly legalized aliens, state and local governments will not bear the costs. This is especially important in view of the fact that the legalized aliens will be ineligible for federal benefits. The total burden of providing services required by statute or constitutional mandate therefore falls on state and local governments.

The Governors fully support the current House provision on reimbursement, and would ask you to oppose any attempt in Committee to substitute less than full reimbursement for the current provision.

Sincerely,

Bob Graham

Governor Bob Graham
Chairman, NGA Task Force on
Immigration and Refugee Issues

NATIONAL GOVERNORS' ASSOCIATION
NATIONAL CONFERENCE OF STATE LEGISLATURES
UNITED STATES CONFERENCE OF MAYORS
NATIONAL ASSOCIATION OF COUNTIES

September 13, 1982

The Honorable Peter W. Rodino, Jr.
Chairman, House Judiciary Committee
United States House of Representatives
2462 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

We are writing to urge your support for amendment to the proposed Immigration and Control Act (H.R. 6514), to be offered by Representative Don Edwards, which would authorize full federal reimbursement of expenses incurred by state and local governments in aiding illegal aliens who would be granted legal status under the bill. The amendment also provides federal aid for the costs of educating children of legalized aliens. While the states and localities we represent may differ on the issue of legalization, we are in full agreement that any new legislation must not result in new financial burdens on state and local governments.

Without federal financial assistance, legalizing the status of several million illegal aliens will increase state and local costs because legalized aliens will become eligible for forms of cash and medical assistance previously not available to them as illegal aliens. Both the House and Senate bills contain provisions which would authorize state and local governments to make legalized aliens ineligible for financial and medical assistance provided by states and localities. However, we are concerned that, if state and local jurisdictions exercise this authority, they would face litigation regarding its constitutionality.

In response to state and local concerns, the Senate, in S 2222, authorized a block grant to assist in meeting the anticipated additional costs. While this represents a significant improvement over the original legislation, we are convinced that the only effective means of safeguarding state and local budgets against added financial burdens is to provide for full federal reimbursement of costs resulting from legalization.

We firmly believe that the federal government—not states and localities—should bear financial responsibility for costs that may result from a federal decision to legalize the status of illegal aliens. National immigration policies, including controlling our borders against illegal immigration, are federal responsibilities over which states and localities have no control.

We appreciate your leadership and efforts over the years toward improving our nation's immigration laws, and ask your support for amending H.R. 6514 to ensure that our concerns about the potential adverse fiscal impacts of legalization are adequately addressed.

Sincerely,

Governor Bob Graham
State of Florida
Chairman
NGA Task Force on Immigration and
Refugee Issues

Senator David A. Roberti
President Pro Tem
California State Senate
Chairman
NCSL Task Force on Refugees and
Immigration

Mayor Ernest N. Morial
New Orleans, Louisiana
Chairman
U.S.C.M. Committee on Health,
Education, Employment, and Human
Services

Commissioner Harvey Ruvin
Dade County, Florida
Chairman
NACO Task Force on Refugees, Aliens,
and Migrants

UNITED STATES CATHOLIC CONFERENCE

1312 MASSACHUSETTS AVENUE, N.W. • WASHINGTON, D.C. 20005

MOST REVEREND JOHN R. ROACH, D.D.,
ARCHBISHOP OF SAINT PAUL AND MINNEAPOLIS
President

REVEREND MONSIGNOR DANIEL F. HOYE
General Secretary

REVEREND RONALD C. ANDERSON
Associate General Secretary

REVEREND DONALD E. HEINTSCHEL
Associate General Secretary

June 16, 1983

Honorable Henry Waxman, Chairman
Health & Environment Subcommittee
of the Energy & Commerce Committee
2418 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Waxman:

The Committee on the Judiciary of the House of Representatives has reported out H.R. 1510, the Immigration Reform and Control Act of 1983. Provisions dealing with the legalization of certain aliens currently in unlawful status severely restrict, or eliminate entirely, their eligibility for Federal benefits and programs based on need, including medical assistance programs over which your Subcommittee has jurisdiction. The Conference strongly opposes these exclusionary provisions because they could effectively deprive children and needy adults granted legal status under the bill of essential health and medical care.

Section 301(c)(1)(A) of the bill expressly makes aliens granted lawful permanent resident status ineligible for medicaid benefits under Title XIX of the Social Security Act. It also denies eligibility to such individuals for "any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need" as such programs are identified by the Attorney General in consultation with others. The period of ineligibility commences on the date the alien is granted permanent resident status and continues for five years. Limited exceptions to ineligibility are provided for, among others, legalized aliens who (i) are aged, blind or disabled or (ii) require medical assistance in the interest of public health or because of serious illness or injury. It is noteworthy that the classes of persons covered by the exceptions may be narrower than the express language used to describe them would seem to imply because the classes may be further delimited

under regulations to be issued by the Attorney General in consultation with the Secretary of Health and Human Services.

Eligibility for coverage under medicaid is presently available to lawful aliens and citizens alike. In other words, this bill represents, to the best of our knowledge, the first effort under Federal law to condition medicaid coverage on any basis other than need. Reliance on the exceptions to the exclusionary provisions to provide necessary health and medical care under medicaid to all the needy among the legalized aliens seems misplaced in light of the comment in the House Report that such exceptions are intended to be "limited" in their application. (H.R. Rep. No. 98-115, 98th Cong., 1st Sess. 71 (1983).) Accordingly, assistance under medicaid such as early screening, diagnosis and treatment of children would not generally be available to legalized aliens under the bill. Similarly, basic preventive medicine and pre-natal care under medicaid would, as we read the bill, also be generally denied them.

We also have serious concerns about the meaning of the provision which denies eligibility for "any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee or otherwise) on the basis of financial need." Although, the word "otherwise" contributes to the vagueness of the quoted language, the House Report on H.R. 6514 (The Immigration Reform and Control Act of 1982), which contained the same exclusionary language, indicated that the intent is, with the limited exceptions mentioned, to make legalized aliens ineligible for any "Federal benefits or programs." (H.R.Rep. No. 97-890, 97th Cong., 1st Sess. 65 (1982).) Under such interpretation, the needy among the legalized aliens who are not aged, blind, disabled, or suffering from serious illness or injury would be ineligible under the bill for any form of Federal health and medical assistance. Thus, for example, the migrant health program, other programs administered for the benefit of children of low-income families, and all forms of maternal and child health care would be unavailable to these persons once their status is legitimized.

In addition, the exclusion of legalized aliens from Federally assisted medical programs and benefits fails to account for the effect of changed circumstances during the period of ineligibility. Death of a family's major provider during that period could necessitate assistance to the family survivors even though no such need existed or was forseeable as of the date of legalization. None of the express exceptions to ineligibility provides for such eventuality.

Children and adults afforded legalized status under H.R. 1510 would be officially welcomed into our society as a necessary first step leading to citizenship. Common sense and basic fairness mandate that the needy among them should enjoy the same eligibility for basic medical and health care under Federally assisted benefits and programs as other legitimate members of our society. In sum, eligibility for such assistance under the bill should be governed by concepts designed to promote the general welfare of our nation and not, as the bill presently prescribes, by the application of arbitrary class distinctions. We, therefore, urge you and your Subcommittee to take whatever action is necessary to assure that under H.R. 1510 eligibility of legalized aliens for Federal assistance to receive essential medical and health care is determined on the basis of need.

Sincerely,

Daniel J. Hoy

General Secretary

○

BOSTON PUBLIC LIBRARY
3 9999 05983 582 5